

# LAW ON THE NATIONAL SECURITY AGENCY

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Date of last check: 15 January 2026

## THE LAW ON THE NATIONAL SECURITY AGENCY <sup>1</sup>

### I GENERAL PROVISIONS

#### Article 1

The National Security Agency of Montenegro (hereinafter referred to as: the Agency) is responsible for the performance of national security activities aimed at the protection of the constitutional order, independence, sovereignty, territorial integrity and security of Montenegro, human rights and freedoms guaranteed by the Constitution, as well as other duties of interest for the national security of Montenegro.

The Agency is a security-intelligence service that forms an integral part of the security system of Montenegro.

#### Article 2

The Agency shall perform tasks and duties within its competence subject to the Constitution and the law.

#### Article 3

The Agency shall be politically and ideologically neutral in performing its activities.

#### Article 4

The Agency shall cooperate with state authorities, organizations and services of other countries and international organizations, in pursuance to the guidelines of the Government of Montenegro (hereinafter referred to as: "the Government").

#### Article 5

The control of the work of the Agency shall be conducted through the parliamentary control and the control of legality and efficiency.

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<sup>1</sup> Official Gazette of Republic of Montenegro, 028/05 of 05.05.2005, Official Gazette of Montenegro, no. 086/09 of 25.12.2009, 073/10 of 10.12.2010, 020/11 of 15.04.2011, 008/15 of 27.02.2015, 125/23 of 31.12.2023, 019/25 of 04.03.2025

### **Article 5a**

All terms used in this Law for natural persons in the masculine gender shall mean the same terms for the feminine gender.

## **COMPETENCIES OF THE AGENCY AND METHOD OF CARRYING OUT TASKS**

### **Article 6**

The Agency shall collect, record, analyze, assess, use, exchange, maintain and protect data of significance to prevent:

- 1) activities directed against the independence, sovereignty, territorial integrity, defence, security and constitutional order of Montenegro;
- 2) terrorism and other forms of organised violence;
- 3) organized crime;
- 4) criminal offences against humanity and other values guaranteed by international law;
- 5) intelligence activities of intelligence officers of other states;
- 6) potential threats to economic well-being of Montenegro;
- 7) threats to international security;
- 8) other possible threats against national security.

The Agency shall be responsible for the counterintelligence protection of the Parliament, the Government of Montenegro, the President of Montenegro and other state authorities, ministries and state administration bodies, including the activities of importance for the security of specific persons and working places in these institutions, as well as facilities, equipment and premises used by them.

The Agency shall perform security checks, as well as other tasks of significance for national security, subject to the law.

The Agency shall report to the President of Montenegro, the Prime Minister of Montenegro and the Speaker of the Parliament of Montenegro on the information listed under par. 1 of this Article.

The Agency shall report to the Defence and Security Council, as well as Minister of Defence and the Chief of Staff of Montenegro's Army about the information listed under par. 1 of this Article.

The Agency shall inform the public authority competent for police affairs (hereinafter referred to as: the Police) and the competent state prosecution office on data referred to in paragraph 1 of this Article which indicate that there are grounds for suspicion that a criminal offence prosecuted ex officio is being prepared, organised or committed.

The Agency shall report to the other bodies in Montenegro about data relating to their competences, when reasons of national security demand so.

The method of performing counterintelligence protection given under par. 2 of this Article shall be stipulated by the Government's decree.

### **Article 6a**

Data referred to in Article 6 of this Law shall be used only for the purpose for which they have been collected, in line with the law.

### **Article 7**

Collecting data shall be performed via means and methods defined by this Law, in line with the principle of proportionality, in the scope and manner necessary for exercising competences and other prescribed tasks of the Agency.

The manner to apply means and methods of data collection, prescribed by this Law, and the manner to conduct operational work shall be stipulated under the Rules of Operational Procedure, passed by the Director of the Agency, with the Government's approval.

#### **Article 7a**

The Agency shall protect the confidentiality of information related to exercising of jurisdiction in line with the law that establishes the confidentiality of data.

### **1. Means and Methods of Data Collection**

#### **Article 8**

The Agency shall be authorized to collect data of significance for performing national security activities, by using publically available sources.

The Agency can gather information and ask for assistance in gathering information from citizens, subject to their explicit prior consent.

An authorized officer of the Agency who gathers information and asks for assistance from citizens in information gathering shall be required to identify himself or herself with an official identification badge.

Should there be likelihood that a citizen, who has not given explicit consent to speak to an authorized officer of the Agency, possesses information relevant to national security, the Agency may request the police to conduct an interview with the citizen, with the participation of the authorized officer of the Agency, in accordance with the law regulating internal affairs.

On the basis of a written consent of the Agency, the state administration authorities, local governance bodies and local governances and legal persons maintaining registers and data records shall allow access to the information, by direct inspection, contained within registers and data records they maintain, to the authorized representatives of the Agency, who is identified via an official identification badge.

The authorized officer of the Agency who has conducted direct inspection of registers and data collections, in terms of paragraph 5 of this Article, shall be prepare the prescribed official document.

The Agency may access data contained in registers and data records kept by authorities and legal entities referred to in paragraph 5 of this Article electronically, based on a written agreement concluded with the head of the authority or the responsible person in the legal entity.

The conclusion of the agreement referred to in paragraph 7 of this Article shall be carried out upon obtaining the prior opinion of the administrative authority competent for the protection of classified information and the independent supervisory body responsible for the protection of personal data (hereinafter referred to as: personal data).

Regarding access to data in line with paragraphs 5 and 7 of this Article, the authorities and legal entities that keep registers and data records shall keep records containing only the official identification numbers of authorized officers of the Agency who conducted direct inspection or had electronic access to the data, as well as the date and time of commencement and conclusion of the inspection.

Authorities and legal persons under par. 5 of this Article shall be bound to deliver wanted information upon written request of the Agency.

Provisions of paragraphs 5 to 10 of this Article shall be applied to other legal persons with residing address in Montenegro, as well as legal persons without the residing address in Montenegro, provided that the equipment for processing of personal data is located at Montenegro.

The request submitted by the Agency for access to data from registers and data records in the manner referred to in paragraphs 5 and 7 of this Article, or for their submission, shall be classified information and its classification level shall be determined in accordance with the law governing the protection of classified information.

State administration bodies and legal persons that have public competences shall, ex officio, inform the Agency about the data of importance for the national security, obtained in performing their competences.

## **2. Covert Data Collection**

### **Article 9**

The Agency shall be authorized to collect data in a covert manner by the following means and methods:

- 1) in cooperation with citizens of Montenegro and foreign nationals,
- 2) by tracking and surveillance in an open and public space, with the use of technical means for:
  - a) photo documentation,
  - b) audio, video and other forms of technical documentation (digital and other forms);
- 3) by purchasing documents and objects,
- 4) by interception of electronic communication and mail deliveries referring to:
  - a) the content of electronic communication,
  - b) traffic data in electronic communication and data on unsuccessful attempts to establish communication;
  - c) location data in electronic communication relating to the user,
  - d) the content and type of postal item or service.
- 5) by surveillance of facility's interior, closed spaces and objects, with the use of technical means.

While implementing the means and methods under par. 1 of this Article, the Agency's employees shall be authorized to employ official documents or marks serving to work undercover, as well as to conceal the identity of persons they cooperate with undercover. While implementing the means and methods under par. 1 of this Article, the Agency's employees shall be authorized to employ official documents or marks serving to work undercover, as well as to conceal the identity of persons they cooperate with undercover.

The authorized body shall issue the document or mark upon the request of the Agency Director, and shall be in charge of keeping special records thereof.

Upon cessation of reasons due to which the use of the above documents and signs has been approved, the body in charge of their issuance shall revoke and deliver them to the Agency for keeping.

## **Article 10**

The Agency shall collect data in cooperation with citizens of Montenegro and foreign nationals.

The cooperation shall be based on the principles of voluntariness and confidentiality.

The Agency shall protect the identity of the person referred to in paragraph 1 of this Article.

## **Article 11**

Should it be impossible to obtain data and information referred to in Article 6 of this Law in the manner set forth by Articles 8 and 10 of this Law, or should the collection of such data cause major difficulties, the Agency Director shall, on the basis of a special act, approve tracking and surveillance with the use of technical means for documentary recording.

The order referred to in paragraph 1 of this Article shall contain information on the identity of the person the order applies to, as available to the Agency, the type of technical means used or the method of documentation, the duration of the measure, as well as the justification for the application of surveillance and monitoring.

The order referred to in paragraph 1 of this Article for the collection of data by using the means and method referred to in Article 9 paragraph 1 item 2 indent b of this Law shall be issued by the Director of the Agency based on a prior decision of the Chief Justice of the Supreme Court of Montenegro or the replacing judge, in line with the law.

Exceptionally, in cases of specific justification and urgency requiring immediate application of the means and methods referred to in Article 9 paragraph 1 item 2 indent b of this Law, and prior to the issuance of the decision referred to in paragraph 3 of this Article, the Director of the Agency may issue an order to initiate the application of such means and methods, if delays would prevent the achievement of the purpose for which it is proposed.

In the case referred to in paragraph 4 of this Article, the Director of the Agency shall, immediately upon the commencement of application of the means and methods referred to in Article 9 paragraph 1 item 2 indent b of this Law, submit a motion for the issuance of the decision referred to in paragraph 3 of this Article.

Should the Chief Justice of the Supreme Court of Montenegro, or the replacing judge, not approve the application of the means and methods referred to in Article 9 paragraph 1 item 2 sub-item b of this Law within 48 hours from its commencement, the Agency shall be obliged to terminate its application and destroy the data and the documents in which such data have been recorded.

The Director of the Agency shall submit the records on destruction of the data and documents referred to in paragraph 6 of this Article to the President of the Supreme Court of Montenegro or the judge acting as substitute.

The collection of data through the application of the means and methods referred to in Article 9 paragraph 1 item 2 sub-item b of this Law shall be authorized for a period of up to three months and may be extended in the manner referred to in paragraphs 1, 3 and 4 of this Article, until the purpose for which the application of such means and method was authorized has been achieved.

## **Article 12**

The Agency shall collect data and information by purchasing documents and objects (secret plans, reports, drawings and other documentation and objects) of relevance for the national security.

The Agency Director shall approve the purchase of documents and objects in line with paragraph 1 of this Article.

The approval of the purchase of documents and objects shall be granted to one-time purchases only.

### **Article 13**

Should the performance of a task on the basis of competencies referred to in Article 8 and Article 9, par. 1, items 1, 2 and 3 above be not possible or should the performance of a task require a considerable risk or threat to the life and health of people, the Agency may, exceptionally, on the basis of a prior decision of the court, carry out surveillance under Article 9 paragraph 1 item 4 indents 1, b and d and item 5 of this Law.

### **Article 14**

Surveillance under Article 9, par. 1 item 4 indents 1, b and d of this Law, upon written proposal of the Agency Director, with an adequate explanation thereof, shall be approved for each specific case by the Chief Justice of the Supreme Court of Montenegro, should there exist a well-founded suspicion of any threat to the national security, such as:

- 1) armed attack prepared against the Montenegro,
- 2) secret activities directed against the independence, sovereignty, territorial integrity, defence, security and constitutional order of Montenegro;
- 3) secret activities, as well as planning and preparation of national or international terrorist attacks and other violent actions against state authorities and holders of public functions in Montenegro and abroad,
- 4) espionage or disclosure of confidential information;
- 5) intelligence and subversive activities of individuals, groups and organizations in favour of other countries, and
- 6) organized criminal activities.

Surveillance referred to in Article 9, par. 1 item 5 of the present Law, upon written proposal of the Agency Director, for each individual case, shall be approved by the decision of the Panel of Judges of the Supreme Court of Montenegro, provided there is reasonable ground to suspect the national security has been threatened by activities given under paragraphs 1 to 6 of this Article.

Surveillance referred to in Article 9 paragraph 1 item 4 indent c of this Law shall be approved by the director of the Agency, through an elaborated written document.

The Decision under par. 1 and 2 above shall be passed within 48 hours from the submission of the proposal.

### **Article 15**

The proposal for surveillance over electronic communication and mail deliveries referred to in Article 9 paragraph 1 item 4 indents a, b and d of this Law shall contain:

data on a person subject to surveillance measures; reasonable grounds for the implementation thereof; mode of implementation; extent and duration, as well as electronic communication means and circumstances urging the implementation of this mode of data collection.

Exceptionally, should the Agency be unable to determine the identity of the person subject to surveillance, the proposal referred to in paragraph 1 of this Article may contain information on the identity of that person available to the Agency or technical data, but only for the surveillance referred to in Article 9 paragraph 1 item 4 indent b of this Law.

Proposal to survey interior of facilities, closed premises and objects shall contain data on: person/s such measures are applied to; facility, space or object under surveillance; the way surveillance is performed; volume and duration; type of technical means used to survey and circumstances urging the implementation of this mode of data collection.

Surveillance referred to in Article 9 paragraph 1 item 4 indents a, b and d and item 5 of this Law may last for three months and, should there exist any important reasons, it may be extended each time for another three months, but no longer than 24 months.

Extension of the time limits referred to in Article 9 paragraph 1 item 4 indents a, b and d of this Law shall be approved by the Chief Justice of the Supreme Court of Montenegro, and in case of absence or inability, the replacing judge. The extension of surveillance under Article 9 paragraph 1 item 5 of the present Law shall be approved by the Panel of Judges of the Supreme Court of Montenegro.

Surveillance under Article 9 paragraph 1 item 4 indents a, b and d and item 5 of this Law shall be revoked immediately after cessation of reasons urging the implementation thereof. The Agency Director shall inform in writing the Chief Justice of the Supreme Court of Montenegro, i.e. Panel of Judges of the Supreme Court of Montenegro, on the cessation of reasons urging the implementation of measures of surveillance.

Surveillance referred to in Article 9 paragraph 1 item 4 indent c of this Law may last for three months and, should there exist any important reasons, it may be extended each time for another three months, but no longer than 24 months.

Extension of surveillance referred to in Article 9 paragraph 1 item 4 indent c of this Law shall be approved by the director of the Agency, through an elaborated written document.

Telecommunication operators and enterprises involved in electronic communications, as well as courier services, shall be bound to provide for and guarantee to the Agency the conditions for surveillance under Article 9 par. 1 item 4 indents a, b and d of the present Law, approved by the Chief Justice of the Supreme Court of Montenegro, or a replacing judge as well as surveillance referred to in Article 9 paragraph 1 item 4 indent c of this Law shall be approved by the director of the Agency, in line with the Law.

## **2a. International Cooperation of the Agency**

### **Article 15a**

Cooperation of the Agency with authorities, organizations and services of other states and international organizations, shall be implemented through exchange of data and joint performance of activities under the competence of the Agency, subject to the law. While exchanging data the Agency is free to present personal data from Montenegro, i.e. submit them to the authorities, organizations and services under par.

While exchanging data the Agency is free to present personal data from Montenegro, i.e. submit them to the authorities, organizations and services under par. 1 above, provided that:

- 1) the state to which the data is to be presented, has appropriate level of regulated protection of personal data;
- 2) has information that the person, whose personal data are requested, is threatening the national security interests of Montenegro, security interests of the country the data is delivered to or values protected by the international law; and
- 3) reciprocity principle is ensured.

Provision of paragraph 2 item 2 of this Article shall not refer to the submission of personal data when performing security checks with the consent of the person personal data refer to.

Data referred to in paragraphs 1 and 2 of the Article shall be used for purposes they have been submitted for only.

When submitting the data referred to in paragraphs 1, 2 and 3 of this Article, the Agency shall indicate the recipient's obligations regarding the application of an adequate level of personal data protection measures and the use of such data exclusively for the purpose for which they were provided

The data records under par.2 above shall be maintained by the Agency.

### **3. Recording, Using and Maintaining Data**

#### **Article 16**

The Agency shall establish and maintain registries and files of personal and other data collected by the Agency in the discharge of its functions, as well as documents related to such data, and organize their proper use and storage.

Registries and files under par.1 above, Article, shall be deemed to represent confidential data, secrecy of which shall be determined in line with the law establishing confidentiality of data.

Registries and files may not comprise any data on persons, the collection of which is not within the competencies of the Agency.

Should the Agency come into possession of data under par. 3 above, it is obliged to destroy it without delay.

Registers and data records referred to in paragraph 1 of this Article shall not contain data and documents which do not refer to the purpose the data have been collected for.

The Agency shall, without delay, destroy the data and documents referred to in paragraph 5 of this Article.

The data and documents referred to in paragraph 5 of this Article, obtained through the application of surveillance over electronic communications and mail deliveries and surveillance of facility's interior, closed spaces and objects, shall be destroyed by the Agency following the inspection by the Chief Justice of the Supreme Court or the Panel of Judges of the Supreme Court.

The destruction of the data and documents referred to in paragraphs 3 and 5 of this Article shall be carried out by a commission appointed by the Director of the Agency.

The commission referred to in paragraph 8 of this Article shall compile a record of the destruction of the data and documents, which shall be signed by the members of the commission present during the destruction.

The record of the destruction of the data and documents referred to in paragraph 5 of this Article shall be submitted by the Agency to the Chief Justice of the Supreme Court or the Panel of Judges of the Supreme Court for their information.

#### **Article 17**

Collection, processing, utilization and protection of personal and other data related to the discharging of functions of the Agency, shall be performed in line with the Law.

The Government shall, upon the proposal of the Agency Director, prescribe the type of records and data collections, their contents, mode of recording, maintenance, usage and protection.

#### **Article 18**

The Agency shall be bound to inform a citizen, upon his/her written request, whether personal data of which that individual is the data subject are being processed and

maintained by the Agency, and at his/her request, make such records available to him/her. Such records allowed to be accessed may not contain any data on officers of the Agency who collected such data or on sources of information and personal data on third persons.

The Agency shall provide the required information or allow access to the records referred to in par.1 above within 30 days of the receipt of the request.

The Agency shall not be obliged to proceed in line with par. 2 of this Article, if any such information could hinder or impede the discharge of the Agency's functions or pose danger to the security of other persons, and it shall inform in writing the applicant thereof within 15 days.

The Agency shall, when the reasons referred to in paragraph 3 of this Article cease to exist, act in accordance with paragraph 2 of this Article if so requested by the citizen.

#### **Article 19**

The Agency shall cooperate with state authorities, ministries and state administration bodies in line with the regulations and security standards stipulated in regulations, international treaties and generally accepted rules of international law.

#### **Article 20**

Bodies referred to in Article 19 above shall furnish the Agency upon its request with the data and information of relevance for the security of Montenegro.

The Agency shall forward specific data to the police and other competent authorities regarding the activities within their competence.

The police and other competent authorities shall use the data referred to in paragraph 2 of this Article exclusively for the purposes prescribed by law for which the data have been provided.

#### **Article 21**

*Shall be deleted. (Law Amending the Law on the National Security Agency, Official Gazette of Montenegro 20/11)*

#### **Article 22**

The Agency shall inform the public about its activities through media or in any other appropriate manner.

The public should be informed so as not to encroach on the citizens' rights and endanger the interests and security of Montenegro.

#### **Article 23**

*Shall be deleted. (Law Amending the Law on the National Security Agency, Official Gazette of Montenegro Law on Education of Children with Special Needs (Official Gazette of the Republic of Montenegro 20/11)*

### **III ORGANIZATION**

#### **Article 24**

The type of internal organizational units of the Agency and titles of officers shall be determined by the Government, upon proposal of the Agency Director.

The act on internal organization and systematization in the Agency shall be adopted by the Agency Director with Government's consent.

#### **Article 25**

The Agency shall be administered by the Director of the Agency.

The Director of the Agency shall be appointed and relieved of office by the Government upon the proposal of the Prime Minister.

The Government shall submit the proposal for the appointment of the Agency Director to the Parliament of Montenegro (hereinafter: Parliament), for its opinion.

The Parliament, after the discussion within the competent working body, shall provide the opinion.

The Agency Director shall be appointed for office for a period of five years and shall be eligible for reappointment.

The Agency Director shall be responsible to the Government for his work and for the work of the Agency.

The Agency Director may not be a member of any political party nor shall his political engagement be allowed.

Should the term of office of the Agency Director cease before the expiration of the term for which he or she was appointed, the Government may appoint an Acting Agency Director for a period of no longer than six months.

#### **Article 26**

The Agency Director shall be empowered to:

- 1) take care of the protection of data, means, methods and sources of information from unauthorized access;
- 2) give instructions and orders for work to organizational units and Agency's employees;
- 3) be responsible for the purposeful use of the budget and other resources of the Agency;
- 4) pass general and other acts necessary for Agency's discharge of functions;
- 5) determine criteria to recruit people in the Agency;
- 6) to submit Agency's work report to the Government;
- 7) perform other tasks as determined by the present law.

### **IV THE RIGHTS AND DUTIES OF THE AGENCY'S OFFICIALS**

#### **Article 27**

The Agency's employees shall be independent in their work and personally responsible for the work conduct.

The Agency's employees shall perform tasks and duties imposed to them, subject to the law, other regulations and general acts.

#### **Article 27a**

Labor contract in the Agency shall be awarded to a person, who, in addition to fulfilling the general conditions for employment in a state body, also fulfils the following conditions:

- 1) he/she is not a citizen of another state;
- 2) he/she has not been sentenced for a criminal offense;
- 3) there is no safety risk for employment in the Agency;
- 4) he possesses psychophysical capacities, if necessary, to perform specific jobs in line with the act on internal organization and systematization.

The existence of safety risk shall be determined by safety checks.

Safety checks under par. 2 of this Article shall be conducted by the Agency, with previous approval of the candidate for employment.

The Agency shall not be obliged to inform the candidates about the existence of safety risks.

Psychophysical capacities under par. 1 item 3 of this Article shall be determined in line with the decree of the Agency Director.

Conditions under par. 1, items 1, 2 and 3 of this Article shall be also fulfilled by persons employed in the Agency as apprentices or are a part of a professional development programme in line with a separate law.

### **Article 28**

Employment within the Agency shall be approved without publication of the vacancy notice. Positions not subject to vacancy notices shall be set forth by the act on internal organization and systematization of working places within the Agency.

Decision on employment in the Agency shall be deliberated by the Agency Director.

### **Article 28a**

A person employed within the Agency shall be required to pass a special examination for work in the Agency within the prescribed period.

The programme and manner of taking the examination referred to in paragraph 1 of this Article shall be determined in accordance with the law governing the rights, obligations and responsibilities of civil servants and state employees.

### **Article 28b**

In the process of filling positions of employees of the National Security Agency, in addition to the requirements set out in Article 27a, members of minorities and other minority ethnic communities shall be ensured proportional representation, in accordance with the Constitution and the law.

### **Article 29**

Agency's employees shall not be members of any political party, nor shall they be allowed to engage in any political activities.

### **Article 29a**

Agency's employees, in addition to restrictions as regards discharge of their duties determined by the law that establishes the position of civil servants and state employees, shall not perform any other jobs, i.e. activities without previous approval of the Agency Director.

Agency's employees shall not, without the previous approval of the Agency Director, publicly disclose information on the Agency or from the scope of work of the Agency.

### **Article 30**

Agency's employees shall not exercise any powers of police, except for powers established by the present Law.

### **Article 31**

Agency's employees, who may, while performing their job, be exposed to danger for personal safety, health and life danger, and who are recruited by the Agency Director, as

well as employees who perform counterintelligence and security protection activities, shall have the right to carry and hold official weapons.

Employees under par. 1 of this Article are entitled to use official weapons only in self-defense and under conditions of extreme necessity, as laid down by the Criminal Code.

Employees under par. 1 of this Article shall be specially trained to carry, hold and use official weapons.

Training program and the assessment of knowledge to proceed while carrying, holding and using the official weapons shall be determined by the Agency Director.

Holding, carrying and method to proceed with the official weapons shall be closely regulated by the Government.

### **Article 32**

Employees who discharge duties under article 6 of the present Law shall be authorized officers of the Agency.

Authorized officers referred to in par. 1 of this Article shall be issued official Identity cards.

The form and contents of the official ID shall be determined by the Agency Director.

### **Article 33**

An employee of the Agency may, if necessary, be reassigned to another workplace, either within the same or another organizational unit, to the same or other working place.

The decision on reassignment shall be made by the Agency Director.

Based on the agreement between the Agency Director and head of another state authority, an employee of the Agency may be temporarily reassigned to the other state body.

### **Article 33a**

An employee of the Agency, in order to perform tasks assigned by the Agency, may be assigned to work abroad, within the cooperation with bodies, organizations and services of other states and international organizations.

The rights and obligations of employees given under paragraph 1 of this Article shall be determined by the decision of the Agency Director, with the approval of the Government.

### **Article 34**

Salaries and other remunerations of the Agency's employees shall be set forth by a special act passed by the Agency Director, with the consent of the Government, in accordance with specific characteristics of the national security activities.

Due to special nature of jobs, working conditions and responsibilities, Agency's employees are entitled to additions to salaries.

The entitlement of the Agency's officials to a special addition to salary shall be determined in pursuance of the Act referred to in par. 1 of this Article.

The decision on salary, additions to salary, fees and other earnings of Agency's employees, shall be passed by the Agency Director.

### **Article 34a**

Employees of the Agency, depending on the nature of the work they perform, shall be indexed the years of service with accelerated rate, in line with the special Act.

### **Article 35**

*Shall be deleted. Law on Salaries of Civil Servants and State Employees, Official Gazette of Montenegro 86/09)*

### **Article 36**

Agency's employees shall be obliged to keep the data confidential while discharging their duties and after they cease to work for the Agency, subject to the law establishing the data confidentiality.

### **Article 36a**

An employee of the Agency shall bear disciplinary responsibility for violations of duties, being light or more serious disciplinary violations.

### **Article 36b**

In addition to more serious disciplinary violations stipulated by the law that establishes the position of civil servants and state employees, and the law establishing the position of police officers, the more serious disciplinary offenses shall be:

- 1) a behavior damaging the Agency's reputation;
- 2) discharge of other jobs, i.e. activities without the prior approval of the Agency Director;
- 3) handling of official firearms contrary to the regulations governing the possession, carrying and handling of official firearms by Agency officers; and
- 4) public disclosure of information about the Agency or within the scope of the Agency's operations without prior approval of the Director of the Agency.

### **Article 36c**

Disciplinary measure for light disciplinary offenses shall be a fee amounting to 15% of the salary paid for the month when the offense was made.

Disciplinary measures for more serious disciplinary offenses shall be as follows:

- 1) fine amounting from 20 to 30% of the salary for the month when the offense was made;
- 2) termination of employment.

### **Article 36d**

Disciplinary measures for disciplinary offenses, upon proposal of the disciplinary commission, shall be imposed by the Agency Director.

The disciplinary commission shall be appointed by the Director of the Agency from among the Agency's employees, of whom the chairperson and at least two members shall hold a university degree in law.

The public shall be excluded from disciplinary proceedings conducted against an officer of the Agency.

Should not the disciplinary procedure be set forth by the present law, the law establishing the position of the civil servants and state employees shall be applied.

### **Article 36e**

The Agency shall, within a separate section of the Annual Report submitted to the competent working body of the Parliament that performs parliamentary control of the work of the National Security Agency, submit information on employees the disciplinary procedure has been conducted against.

### **Article 37**

Montenegro is obliged to provide legal and material aid to the employees of the Agency and members of their families, in the event they have been detained, arrested or sentenced outside the territory of Montenegro, while performing their duties.

The Agency is also obliged to provide the assistance referred to in par. 1 above, as well as other kinds of protection to the Agency's employees, former employees and members of their families, should they be brought into any danger by virtue of their official engagement.

Employees of the Agency shall not exercise the rights referred to in par. 1 and 2 above in the event of any transgression of competences or abuse of their official positions in the Agency.

### **Article 37a**

The Agency shall maintain human resources records and salary records that shall, in addition to data determined by the law establishing the position and earnings of civil servants and state employees also contain other data related to specific activities of the agency.

The data from records referred to in paragraph 1 of this Article shall be marked with an appropriate level of confidentiality in accordance with the law regulating data confidentiality.

The Agency shall also maintain the property records of employees. The contents of the property records shall be prescribed by the Agency Director.

### **Article 38**

Positions, rights, duties and responsibilities of the Agency's employees stemming from their employment shall be governed accordingly by the law governing employment of police officers and general acts on public servants, unless otherwise prescribed by this Law.

## **V CONTROL OF THE LEGALITY AND EFFICIENCY OF THE WORK OF THE AGENCY**

### **Article 39**

The control of the legality and efficiency of Agency's operations shall be conducted in respect to:

- 1) data protection;
- 2) efficiency in implementation of programs and action plans;
- 3) application and transgression of competences;
- 4) financial operations;
- 5) efficiency in performing other jobs and duties under Agency's competences.

### **Article 40**

The control of the legality and efficiency of Agency's operations shall be conducted by a special national security controller (hereinafter referred to as: "the special controller") at the premises of the Agency.

The special controller can also be a person who, in addition to the general requirements for employment in state authorities, also meets the following requirements:

- 1) he/she is not a citizen of another state;
- 2) he/she has not been sentenced for a criminal offense;

3) there is no safety risk for employment in the Agency;

4) has at least five years of relevant professional experience in the security sector.

The existence of a security risk shall be determined via security check carried out by the Agency, with the previous approval of the person referred to in paragraph 2 of this Article.

The Agency shall not be obliged to inform the person referred to in paragraph 3 of this Article about the existence of safety risks.

The special controller shall be appointed and dismissed from office by the Government upon the proposal of the Prime Minister.

The term of office of the special controller shall be terminated when the Government's term of office is terminated.

The special controller shall be accountable to the Government for his work.

The special controller shall have the rights, obligations and salary coefficient as the advisor to the Prime Minister.

#### **Article 41**

The special controller General shall report to the Agency Director about all issues of importance for Agency's operations, breaches of the law and other regulations, as well as other findings in the control procedure and give recommendations and specify time limits to remove deficiencies.

Should within time limits prescribed under par. 1 of this Article, all observed deficiencies, irregularities or illegitimate acts not be eliminated, the special controller shall be bound to inform the Government thereof.

The special controller shall submit the annual report on the control carried out to the Agency Director, the Government and the competent working body of the Parliament.

#### **Article 42**

On the grounds of the protection of the national security interests, the Agency Director may temporarily suspend or prohibit the special controller to perform the control, should it seriously endanger successful ongoing operation of the Agency which is of particular importance for national security.

The Agency Director shall, without any delay, inform the Prime Minister about the measures referred under par. 1 of this Article.

#### **Article 42a**

Term of office of the special controller shall cease by:

- the cessation of the term of office of the Government;
- upon personal request;
- if they cease to meet the requirements referred to in Article 40 paragraph 2 items 1 and 3 of this Law;
- by dismissal.

The person referred to in paragraph 1 of this Article shall be dismissed if:

- he is convicted to an unconditional imprisonment;
- he is convicted of a criminal offence making him unworthy of performing the duties;
- based on information provided by the National Security Council, the Government assesses that such person has endangered or may endanger the data referred to in Article 6 of this Law.

## **VI PARLIAMENTARY CONTROL**

### **Article 43**

Parliamentary control of the Agency's operations shall be conducted by the Parliament, through a competent working body.

The Agency shall submit annual action report to the competent working body.

The Agency shall, upon request of the working body referred to in par. 1 of this Article, allow access to the surveillance procedures given under Article 9 par. 1 items 4 and 5 of the present Law, unless the same present a threat to the national security.

The Agency shall not disclose information about the identity of the Agency's associates, Agency's employees with undercover and other persons to whom disclosure of such information may inflict any damage, or any information about security and intelligence sources and ongoing actions.

### **Article 44**

Members of the competent working body and people involved in the work of the working body shall proceed with confidential data as stipulated by the law establishing the data confidentiality.

### **Article 45**

Sessions of the working body shall be closed for public.

Chairman of the competent working body shall inform the public about its work according to the decisions of this body.

### **Article 46**

Competent working body shall submit action reports to the Parliament, at least once a year.

The Parliament shall decide to hold a session without the presence of the public, depending on the contents of the report referred to in par.1 of this Article.

## **VII FINANCING**

### **Article 47**

Financial resources for the work of the Agency shall be provided within the budget of Montenegro.

Additional resources for special purposes, when defending interests of the national security, shall be provided by the Government, upon proposal of the Agency.

### **Article 48**

Regulations governing public procurement procedures shall not apply to acquiring of special equipment, official weapons, and premises used in the Agency's operations.

The method and procurement procedure under par.1 of this Article shall be closely defined by the decision of the Agency Director.

## **VIII TRANSITIONAL AND FINAL PROVISIONS**

### **Article 49**

Subordinate legislation for enforcement of this law shall be enacted within six months as of the effective day of this law.

Regulations valid until the enforcement of the present Law shall be applied until the legislation under par.1 of this Article is passed, if not inconsistent with the present Law.

#### **Article 49a**

Bylaws for the enforcement of this Law shall be passed within 12 days following the date of entry into force of this Law.

#### **Article 50**

Law. The Agency Director shall be appointed thirty days of the day of enforcement of the present Law. The Agency Director shall be appointed thirty days of the day of enforcement of the present

Act given under article 23 par. 2 of the present Law shall be passed within three months of the

#### **Article 51**

The Agency shall take over official premises, case files, archive, equipment, funds for work and other means used by the State Security Service of the Ministry of the Interior Affairs on the effective date of the present law.

#### **Article 52**

The Agency shall retain all employees of the State Security Service of the Ministry of the Interior Affairs employed on the day of entry into force of this Law.

Assignment of officers under par. 1 of this Article shall be conducted in line with the act on internal organization and systematization of working places within the Agency.

Agency's employees who are not assigned to positions in line with the act under par.2 of this Article shall have employment rights prescribed by the Law on civil servants and state employees.

#### **Article 52a**

The employment contract with Agency's employees who, within two years as of the enforcement of the present law, do not get a release from citizenship in another country, shall be terminated.

#### **Article 52b**

An employee of the Agency who, as of 30 April 2015, has reached at least 50 years of age and completed at least 25 years of contributing to insurance, of which at least 15 years have been effectively spent performing duties for which the insurance period is calculated with extended duration, shall have their employment terminated no later than 1 May 2015.

In the case referred to in paragraph 1 of this Article, the employee of the Agency shall be entitled to retirement.

Retirement referred to in paragraph 2 of this Article shall be determined in the manner prescribed by the law governing pension and disability insurance, while in determining personal coefficient, if this is more favourable for Agency employee, the personal coefficient shall be determined on the basis of salary, i.e., salary compensation realized throughout the whole calendar year prior to the year of exercising the right to pension.

The amount of the retirement determined in line with paragraph 3 of this Article shall be increased by 40%, except that the amount of that pension cannot be higher than the highest amount of the old-age pension established in accordance with the law governing pension and disability insurance.

The right to pension by applying this Article may be exercised until July 1, 2015.

#### **Article 52c**

An employee of the Agency whose employment is terminated upon personal request by 1 May 2015 shall be entitled to a retirement if, by 30 April 2015, they have reached at least 50 years of age and completed at least 20 years of contributing to insurance, of which at least 10 years have been effectively spent performing duties within the Agency for which the insurance service period is calculated with extended duration.

In the case of exercising the right to retirement as referred to in paragraph 1 of this Article, the provisions of Article 52b paragraphs 3, 4 and 5 of the present Law.

#### **Article 52d**

The regulation governing the scope and organisation of the activities of the Cabinet of the Prime Minister of Montenegro shall be harmonised with this Law within 15 days from the date of its entry into force.

#### **Article 52e**

The act on internal organization and job descriptions of the National Security Agency in line with this Law shall be adopted within 15 days from the day of beginning of entering into force of this Law.

#### **Article 52f**

The special controller for national security shall be appointed within 30 days from the date of harmonisation of the regulation referred to in Article 52d of this Law.

The General Inspector shall continue to perform duties until the appointment of the special controller for national security, upon which his/her mandate shall cease.

#### **Article 53**

This Law shall enter into force on the day of its publishing in the Official Gazette of Montenegro.

#### **NOTE**

On the day of entry into force of the Law Amending the Law and Other Regulations due to the Constitutional Change in the Name of the State (Official Gazette of Montenegro, No. 73/10), in the laws and other regulations that were adopted before the Constitution of Montenegro:

- title: "Republic of Montenegro" shall be replaced by the title: "Montenegro";
- in the title of state and other authorities and in the title of individual acts, the word "Republic" shall be deleted;
- title: "administrative authority of the Republic" shall be replaced by the title: "state administration authority";
- wording "of the Republic" shall be replaced by "the state" or shall be deleted.