

LAW

on the Organisation and the Operation of the Romanian Intelligence Service

The Law No. 14/February 24, 1992 - Law on the Organisation and the Operation of the Romanian Intelligence Service -was published in the "Monitorul Oficial" (Official Gazette of Romania), Part I, No. 33, March 3, 1992..8

CHAPTER I

Co-ordination, Control and Powers

Art. 1. - The Romanian Intelligence Service is a state body specialised in the domain of intelligence with regard to the national security of Romania. It is a component of the national defense system, and its activity is organised and co-ordinated by the Supreme Council of National Defense.

The activity of the Romanian Intelligence Service shall be controlled by Parliament. Annually, or whenever the Parliament so decides, the Director of the Romanian Intelligence Service shall submit to it reports concerning the discharge of the powers incumbent upon the Romanian Intelligence Service, according to the law. With a view to exercising a concrete and permanent control, a common commission of the two Chambers shall be constituted.

The organisation, operation, and methods of exercising the control shall be established by decision adopted by Parliament.

Art. 2. - The Romanian Intelligence Service shall organise and carry out activities of collecting, checking, and turning to good account information necessary to the knowledge, prevention, and thwarting of any actions that, according to the law, constitute menaces against the national security of Romania.

Art. 3. - The Romanian Intelligence Service shall ensure the safeguarding of the state secret, and prevent the leakage of data or information, which, according to the law, cannot be divulged.

In application of the statutory provisions concerning the safeguarding of state secret, the Romanian Intelligence Service shall organise and carry out the transport of the official classified correspondence throughout the territory of Romania.

Art. 4. - At the request of the head of a public institution, a self-managed public or trading company, the Romanian Intelligence Service shall check and provide data with regard to persons who are to fill offices in the respective units, presupposing access to information and activities with a state secret character, or which, according to the law, cannot be divulged.

Judges, public prosecutors, and civil servants from the Ministry of National Defense, the Ministry of the Interior, the Ministry of Justice, the External Intelligence Service, and the Watch and Protection Service, which shall establish their own measures for safeguarding the state secret, according to the law, shall be excepted from the provisions of paragraph 1.

Art. 5. - At the request of natural or legal persons from the private sector, the Romanian Intelligence Service may grant specialised aid for safeguarding the secrets in their possession and preventing the leakage of data and information, which the public cannot be apprised of. Specialised aid shall be granted against cost, at the agreed fees.

Specialised aid shall be granted free of charge to the persons provided under paragraph 1, who carry out orders for the Government, within their limit and over their duration, as well as to those who carry out research or production activities in problems or concerning aspects of national importance.

Art. 6. - Through its units, the Romanian Intelligence Service shall:

a) carry out informative and technical activities for preventing and combating terrorism;

b) carry out antiterrorist interventions on objectives attacked or occupied by terrorists, for capturing or annihilating them, setting hostages free and restoring law and order. The antiterrorist interventions shall be achieved with the approval of the Executive Body of the Romanian Intelligence Service;

c) ensure antiterrorist protection of Romanian and foreign dignitaries as well as of other officials, according to the rules established by the Supreme Council of National Defense.

The Romanian Intelligence Service shall concur in the achievement of the antiterrorist protection of dignitaries guarded by the Protection and Watch Service in situations when they are the objects of threats with terrorist acts.

The Romanian Intelligence Service may also ensure the antiterrorist protection of other persons, at their request, at agreed fees.

Art. 7. - The Romanian Intelligence Service shall act to discover and thwart actions of initiation, organisation, or constitution on Romania's territory of informative structures that might cause damage to national security, activities of adherence or support to such structures in any way whatsoever, or the unlawful making, holding or using of communications interception means as well as for the collection and transmission of secret or confidential information.

Art. 8. - The Romanian Intelligence Service shall be authorised to hold and use adequate means for obtaining, checking, processing, and stocking information with regard to national security, in the terms of the law.

Art. 9. - With a view to establishing the existence of threats against the national security, staff specially designated by the Romanian Intelligence Service may, with observance of the law, carry out verifications by: requesting and obtaining objects, documents, or official information from public institutions; consulting specialists or experts; receiving notifications or informative notes; fixing certain operative moments by photographing, filming, or by any other technical means; personal findings, technical operations inclusive.

Art. 10. - In situations carrying menaces against Romania's national security, the Romanian Intelligence Service, through staff appointed to that end, shall request the public prosecutor to grant the warrant provided under Article 13 of the Law on the National Security of Romania, for carrying out activities authorised by it.

Art. 11. - The activities provided under Articles 9 and 10 shall be registered into reports on findings which, drawn up with observance of the provisions of the Code of Criminal Procedure, may constitute means of proof.

Art. 12. - In case of finding a flagrant delicto against the national security regime established by law, of a terrorist attempt or act, or of some attempts or preparatory acts to such crimes, if punished by law, the staff of the Romanian Intelligence Service may hold in custody the offender or offenders and hand them over immediately to the competent judicial bodies together with the report on findings and the corpus delicti.

At the request of the competent judicial bodies, specially designated staff of the Romanian Intelligence Service may grant support in carrying out certain criminal investigation activities for offences concerning the national security. The criminal prosecution bodies shall have the obligation to impart to the Romanian Intelligence Service any data or information regarding the national security, resulting from the criminal prosecution activity.

Art. 13. - The bodies of the Romanian Intelligence Service may not carry out criminal investigation activities, they may not take a detention measure or preventive custody, nor dispose of their own arrest places.

Art. 14. - In carrying out the powers incumbent upon it, the Romanian Intelligence Service shall collaborate with the External Intelligence Service, the Protection and Watch Service, the Ministry of National Defense, the Ministry of the Interior, the Ministry of Justice, the Public Ministry, the Ministry of Foreign Affairs, the Ministry of Economy and Finance, the General Direction of Customs as well as the other bodies of the public administration.

The bodies provided under paragraph 1 shall have the obligation to mutually grant the necessary support to one another in the carrying out of the powers provided by law.

Art. 15. - With the approval of the Supreme Council of National Defence, the Romanian Intelligence Service may establish relations with similar bodies from abroad.

CHAPTER II

Organisation and Operation of the Romanian Intelligence Service

Section 1

The Board of Directors

Art. 16. - In carrying out the powers established by law, the Romanian Intelligence Service shall be directed by a Board of Directors, a deliberative body, consisting of the Director of the Romanian Intelligence Service, the Prime-Deputy Director, the Deputy Directors, the Chiefs of central and territorial units.

The composition of the Board of Directors shall be established by the Operation Regulations of the Romanian Intelligence Service, and the nominal appointments to the Board shall be made by the director.

The chairman of the Board of Directors shall be the director of the Romanian Intelligence Service. In the director's absence, the chairman's powers shall be carried out by the Prime-deputy director, or, in this one's absence, by a specially designated deputy director.

Art. 17. - The Board of Directors of the Romanian Intelligence Service shall, as a rule, meet quarterly, the meetings being called together by its chairman.

In case of emergency, at the request of at least one third of the number of its members or at the director's request, the Board of Directors shall meet whenever necessary.

Art. 18. - The Board of Directors of the Romanian Intelligence Service shall carry on its proceedings in presence of at least two thirds of the number of its members, and adopt decisions by the vote of at least one half plus one of the total number of its members.

Art. 19. - At the sittings of the Board of Directors may be invited, as the case may be, representatives of certain ministries or other bodies of the public administration interested in the examination of the problems subject to debate as well as specialists from within the Romanian Intelligence Service or from without it.

Art. 20. - For the analysis of certain problems of general interest concerning national security, the Board of Directors may constitute bodies of workers including specialists from within the Romanian Intelligence Service or from without it. Designation of specialists from without the Romanian Intelligence Service shall be made with the agreement of the leadership of the respective central bodies.

The guests and specialists from without the Romanian Intelligence Service provided under Article 19 and under paragraph 1 of the present article shall comply with the legal provisions regarding the defense of the state secret.

Section 2

The Executive Body of the Board of Directors

Art. 21. - The effective guidance of the Romanian Intelligence Service and the ensuring of the carrying into effect of the Board of Directors' decisions shall be achieved by its Executive Body.

The Executive Body shall consist of director, prime deputy director and deputy directors.

Chairman of the Executive Body shall be the director of the Romanian Intelligence Service.

Art. 22. - The Executive Body of the Board of Directors of the Romanian Intelligence Service shall meet twice monthly, the sittings being called by the director.

The provisions under Articles 18 and 19 shall apply correspondingly to the Executive Body as well.

Section 3

The Director of the Romanian Intelligence Service

Art. 23. - The Romanian Intelligence Service shall be directed by a director, with a minister's rank, appointed by the Chamber of Deputies and the Senate in a common sitting, at the proposal of Romania's President, after hearing the candidate proposed by the Commission charged to exercise parliamentary control over the activity of the Romanian Intelligence Service, who shall present a report before the two Chambers of Parliament.

On being appointed in office, the director shall take before Parliament the following oath: "*I, ..., swear to fulfill in good faith and unbiased, in full respect of the Constitution and laws of the Country, the powers incumbent upon me as director of the Romanian Intelligence Service*".

In exercising the powers incumbent upon the Romanian Intelligence Service, the director shall issue orders and instructions, according to the law.

The removal from office of the Director of the Romanian Intelligence Service shall be made by Parliament, in a common sitting of the two Chambers, at the proposal of Romania's President or of at least one third of the total number of deputies or of senators.

Art. 24. - The director of the Romanian Intelligence Service shall have a prime-deputy, who shall also be his statutory locum tenens, as well as three deputies.

The prime-deputy director of the Romanian Intelligence Service and the deputy directors shall have the rank of state secretaries, and shall be appointed by the President of Romania, at the proposal of the director of the Romanian Intelligence Service.

Section 4

The Structure of the Romanian Intelligence Service

Art. 25. - In the structure of the Romanian Intelligence Service shall enter units and sub-units, in agreement with the specific character of its activity, equivalent to the structure in ministries.

The units of the Romanian Intelligence Service shall be subordinated only to its leadership.

Art. 26. - The structure, personnel, and calling up of the reservists of the Romanian Intelligence Service as well as its Operation Regulations shall be approved by the Supreme Council of National Defense.

The Executive Body of the Romanian Intelligence Service, depending on needs, within the limits established by law and of the approved effectives, shall propose to the Supreme Council of National Defense the improvement of the structures of the Romanian Intelligence Service and the redistribution of the effectives.

CHAPTER III

Staff of the Romanian Intelligence Service

Art. 27. - The staff of the Romanian Intelligence Service shall consist of permanent military cadres and civil employees, who shall carry out operative and administrative powers.

Those who, while belonging to the repressive structures of the totalitarian state, have committed abuses, the informers and collaborators of the Security as well as former activists of the communist party, guilty of offences against the fundamental rights and freedoms of man shall be debarred from acting in the Romanian Intelligence Service.

The military cadres of the Romanian Intelligence Service shall have all the rights and obligations provided for the military of the Romanian Army, by statutory regulations, military statutes and rules.

The civil employees shall be subject to the provisions of the Code of Labor, and other statutory provisions and regulations of the Romanian Intelligence Service.

Art. 28. - The operative officers of the Romanian Intelligence Service shall carry out their activity openly or under cover, in relation to the needs of achieving national security.

The Romanian Intelligence Service shall ensure the protection and appointment in other units or working departments of the operative officers who, while working under cover, have been disclosed under circumstances excluding their guilt.

Art. 29. - The military staff shall be formed of graduates of the teaching institutions from its own system, military cadres selected and transferred from the Ministry of National Defense or from the Ministry of the Interior, on the basis of nominal requests of the director, with the agreement of the respective ministers, as well as of specialists called up in the active cadres.

The military staff transferred from the Ministry of National Defense, from the Ministry of the Interior, or from other sectors of activity shall enter into the exclusive subordination of the leadership of the Romanian Intelligence Service.

Art. 30. - The selection, appointment, granting of grades and promotion to grades and offices, transfers, passage into the reserve, cessation or breach of the contract of employment shall be made according to the law, the Operation Regulations of the Romanian Intelligence Service, Statutes of the bodies of officers, military foremen, and non-commissioned officers, and other statutory provisions.

Art. 31. - The training of the staff shall be achieved through its own education system or in specialised institutions of the Ministry of the Interior and of the Ministry of National Defense.

Art. 32. - The staff of the Romanian Intelligence Service shall identify itself with the service identity card, and in operative missions also with the service badge. The model of the service badge shall be that provided in Appendix 1.

Art. 33. - The permanent military cadres of the Romanian Intelligence Service are entitled to a uniform, which shall be provided free of charge. The classes of staff for whom the wearing of the uniform is compulsory during service time shall be established by the director of the Romanian Intelligence Service.

The uniforms, rank insignia, and accessories shall be established in the Rules for the description and wearing of uniforms for the staff of the Romanian Intelligence Service, approved by the Supreme Council of National Defense.

Art. 34. - The Romanian Intelligence Service may conscript recruits for its own watch and auxiliary activities, through the territorial military organs on the basis of requests addressed to the High General Staff sixty days before conscription date. In case its own watch personnel is insufficient, these shall be made up with soldiers from the gendarmerie troops.

The Romanian Intelligence Service shall have a mobilisation organ, which shall carry out the mobilisation, and hold the record of the military and civil staff existing at peacetime as well as that of the reservists.

The functioning rules of this organ shall be established by mutual agreement with the High General Staff of the Ministry of National Defense.

The record of the military situation of the staff shall be kept by the Romanian Intelligence Service and for reservists also by the territorial military organs.

Art. 35. - The staff from the operative sectors of the Romanian Intelligence Service shall be public servants fulfilling powers that imply the exercise of state authority, and they shall have all the rights and obligations provided by law for this quality.

Art. 36. - The staff of the Romanian Intelligence Service may not belong to parties or other organisations with a political or secret character and may not be used for political purposes.

The Romanian Intelligence Service shall not undertake any activity to promote or damage the interests of a political party or natural and legal persons, except those actions of the above mentioned which run counter to national security.

Art. 37. - The military cadres and civil employees of the Romanian Intelligence Service shall have the obligation to keep the state and professional secret strictly, including after leaving the service in any way whatsoever.

Any divulgence of data or information known as a result of the quality of employee of the Romanian Intelligence Service, except cases authorised by law, shall be prohibited and punished according to the law.

Art. 38. - The successors of the cadres of the Romanian Intelligence Service deceased during and because of service, owing to acts of exceptional devotion to duty, shall be granted a pension equal to the integral pay they had had at the moment of demise.

In case there are no successors, nor is there a surviving spouse, if the deceased was the only support of his parents, these shall benefit by one half of the successor pension established according to the provisions of paragraph 1.

The pension for permanent disability, supervened owing to acts of exceptional devotion, shall be equal to the pay at the respective moment; and those involved shall also benefit only once of a bonus equal to five times the pay.

The staff of the Romanian Intelligence Service who, owing to acts of exceptional devotion, have suffered partial disability, and are incapable of further exercising their profession shall benefit, besides the rights resulting from retirement on a pension, of a bonus equal to three times the pay at the respective moment.

Art. 39. - For special merits in the defense of Romania's national security, the cadres of the Romanian Intelligence Service may be awarded decorations provided by law for the military of the Romanian armed forces.

CHAPTER IV

Material Assurance

Art. 40. - The Romanian Intelligence Service shall:

a) elaborate and substantiate its own income and expenditure budget, ensure the financing of the units, co-ordinate and control the economic activity of the persons entitled to authorise expenditure from the budget subordinate to it;

b) approve, within the limit of its competences, the technical and economic documentation for its own investment works, and supervise their execution at the established terms;

c) carry out import-export activities of apparatus and techniques specific to intelligence work, and ensure adequate technical aid, according to the law;

d) establish utilisation, maintenance, and repair norms for the armament, techniques, and other goods part of its equipment, as well as consumption norms for ammunition and other materials;

e) establish norms concerning the material and financial assurance, discounting, recording and controlling the material and financial means necessary to subordinate units;

f) exercise any other powers granted by law.

Art. 41. - The Romanian Intelligence Service shall endow itself with the armament, ammunition, and fighting techniques required for carrying out antiterrorist defense and intervention tasks, the transport of secret correspondence, its own watch, and other service missions.

Art. 42. - The buildings, transport vehicles, technical apparatus, and other material means necessary to the functioning of the Romanian Intelligence Service shall be provided by the Government.

The financial funds required for carrying on the activity of the Romanian Intelligence Service shall be provided within the framework of the State budget approved by Parliament.

The Romanian Intelligence Service shall have its own fleet of transport means for the central machinery and the subordinate units, which shall be established by the units' endowment tables, approved by the director.

Art. 43. - Under the control of Parliament, in relation to its own needs, and with strict observance of the legal provisions, within the framework of the Romanian

Intelligence Service may function: a self-managed public company, production trading companies, health institutions as well as associations with a cultural and sporting character.

CHAPTER V

Final Provisions

Art. 44. - In case of necessity and when the use of other means of hindering or constraint is not possible, the staff of the Romanian Intelligence Service shall be authorised to carry arms, to use the force of side arms or fire arms, in the terms provided by law.

Art. 45. - Internal documents of any kind of the Romanian Intelligence Service shall have the character of a state secret, they shall be kept in its own archive, and may be consulted only with the director's approval, in the terms of the law.

Documents, data, and information of the Romanian Intelligence Service may become public only after the passage of a period of forty years since they have been deposited into archives.

The Romanian Intelligence Service shall take over, for preservation and utilisation, the archive funds concerning national security from the former intelligence bodies with competence on Romania's territory.

The archive funds of the former Department of State Security, regarding national security, may become public only after the passage of a period of forty years since the adoption of the present law.

Art. 46. - For individualisation and recognition, the Romanian Intelligence Service shall use a siglum with the pattern and description provided in Appendix 2. The siglum shall be the weapon sign of the Romanian Intelligence Service.

Art. 47. - Appendices 1 and 2 shall be an integral part of the present law.

Art. 48. - The Decree of 26 March 1990 issued by the Provisional Council of National Union with regard to the setting up of the Romanian Intelligence Service as well as any other provisions contrary to the present law shall be abrogated.

APPENDIX No. 1

* SRI stands for Serviciul Român de Informații, i.e. The Romanian Intelligence Service

** HOMELAND AND HONOUR.

APPENDIX No. 2

PATTERNS AND DESCRIPTION OF THE ROMANIAN INTELLIGENCE SERVICE'S SIGLUM.

The siglum shall consist of a basic square, having four isosceles triangles designed on the middle of its sides.

The basis of the isosceles triangle shall be equal to one half the size of the square's side.

The height of the isosceles triangles shall be equal to one half of the square's side.

The bases of the isosceles triangles common with the sides of the square are not designed.

The square and the four isosceles triangles form an alternately unequal eight-cornered star.

The heights of opposite vertices are equal two by two, the vertices formed by the corners of the square being smaller than the vertices formed by the four isosceles triangles.

The relation between the radius of the circle inscribed within the basic square and that within which the star is inscribed shall be of 1 to 2.

Within the basic square shall be inscribed the initials S.R.I, with block letters.

The height of the letters shall be in relation of 2 to 1 to their width.