

(“Official Gazette of Bosnia and Herzegovina”, 54/05)

Based on Article IV. 4. a) of the Constitution of Bosnia and Herzegovina, the Bosnia and Herzegovina Parliamentary Assembly, at the session of the House of Representatives held on 19 July, 2005 and session of the House of Peoples held on 28 July 2005, adopted the following

LAW

ON PROTECTION OF SECRET DATA

CHAPTER I - GENERAL PROVISIONS

Article 1 (Scope of the Law)

This Law shall regulate common bases of a single system of designation, access to, use, keeping and protection of secret data from unauthorized disclosure, destruction and abuse within the competence of Bosnia and Herzegovina, entities and other levels of government structure of Bosnia and Herzegovina pertaining to public security, defence, foreign affairs or intelligence and security activities, declassification of such information, and security clearance procedure and issuance of security authorization to access secret data.

Article 2 (Application of the Law)

Provisions and arrangements of the Law on Protection of Secret Data (hereinafter: the Law) shall apply to all institutions, bodies, legal entities and citizens of Bosnia and Herzegovina and shall be observed by state and entity bodies, holders of public offices, bodies of local administration, administrative bodies at all other levels of the government, economic and other organizations and institutions which in the exercise of their own legal authorities produce, have access to and use such data, as well as employees in such bodies, organizations and institutions.

Article 3 (Application of the Law on other legal and physical persons)

- (1) Contractors who perform construction and other works, service agents for IT and other equipment as well as suppliers who have been provided with such information in performance of their work shall also be obliged to comply with this law.
- (2) Any person to whom secret data are confided or who in any other way is informed of the contents of secret data shall be responsible for its safekeeping and protection of its secrecy.

Article 4 (Connotation of the used terms)

Terms used for the purpose of this law shall mean as follows:

- a) **secret data** shall mean a fact or instrument which pertains to the public security, defence, foreign affairs or intelligence and security activities of Bosnia and Herzegovina which, pursuant to the provisions this law, require protection against unauthorized persons and which were marked as secret by the responsible person,
- b) **secret data of another state, international or regional organization** shall be information which was communicated to Bosnia and Herzegovina and/or its competent bodies by another state, international or regional organization and/or its bodies under assumption that such information shall remain protected, and all data obtained as a result of cooperation of Bosnia and Herzegovina and/or its responsible bodies

with another state or bodies of international or regional organization with respect to which the parties agreed that they should remain secret, shall be treated as secret data of another state, international or regional organization,

- c) **a document** shall be any written, printed, drawn, copied, photographed, stored on data carrier or base, visible or any other record of secret data,
- d) **a medium** shall be any instrument, which contains secret information,
- e) **classification of data** shall mean a procedure in which such data are classified as secret with specific character, degree and period of classification in accordance with this law,
- f) **access** shall mean a procedure in which a person obtains secret data or possibility to communicate secret data to a person on the basis of an authorization to access secret data,
- g) **use** of secret data shall mean a procedure of use of such data by authorized persons in the exercise of their duty, subject to protection of the source and method in which it was obtained,
- h) **safekeeping** of secret data shall mean a prescribed procedure of maintaining the authenticity of data and preventing their disclosure, destruction and abuse by unauthorized persons, bodies, public information media, organization or institution,
- i) **protection** of secret data shall mean a physical and material-technical procedural act, activity or procedure aimed at prevention of destruction, misappropriation or abuse of secret information,
- j) **declassification** of data shall mean any legal transformation of secret data into data, which is accessible to interested parties pursuant to general regulations passed by the responsible body,
- k) **security clearance procedure** of a person shall mean a process conducted, before the person takes office in which he or she has, or there is a possibility to have, access to secret data, by an authorized body whose responsibility is to obtain information on possible security-related concerns for exercising office,
- l) a **security authorization** shall mean a document on the bases of which a person who has been subjected to security verification and for whom there are no security-related concerns satisfies conditions to be allowed access, use, protection and safekeeping of secret data,
- m) **security-related concerns** shall mean information or facts obtained in the security clearance procedure which raise doubts as to the trustworthiness or loyalty of person proposed for a certain office or nominated as a holder of a security authorization,
- n) **threat to the integrity of Bosnia and Herzegovina** shall mean an objective threat or act of aggression against the constitutional system, independence, territorial entirety, integrity, sovereignty, security, defence capacity and international subjectivity of Bosnia and Herzegovina.

Article 5

(Access to secret data of all degrees)

- (1) Notwithstanding the provisions of this Law, access to secret data of all degrees without a security clearance or issuance of the authorization to access secret data shall be accorded to the following persons:
 - a) Members of the Presidency of Bosnia and Herzegovina,
 - b) President and Vice-Presidents of the Federation of BiH and Republika Srpska,
 - c) Judges of the Court of Bosnia and Herzegovina and Constitutional Court of Bosnia and Herzegovina,
 - d) State Prosecutor of Bosnia and Herzegovina,
 - e) State Attorney of Bosnia and Herzegovina,
 - f) Judges of all courts in the area of the Federation of Bosnia and Herzegovina and Republika Srpska,
 - g) Prosecutors at all levels in the Federation of BiH and Republika Srpska,
 - h) Public Attorneys at all levels in the Federation of BiH and Republika Srpska.
- (2) Persons referred to in Paragraph (1) shall only have access to secret data required for exercising their duties in accordance with the law and may not require access to documents which do not relate to the issues from their competency.

Article 6

(Access to secret data of the degree RESTRICTED and CONFIDENTIAL)

- (1) Access to secret data of the degree RESTRICTED and CONFIDENTIAL, without a security clearance

and authorization shall be accorded as follows:

a) At the level of Bosnia and Herzegovina:

- 1) Chair, Ministers and Deputy Ministers of the Council of Ministers of Bosnia and Herzegovina,
- 2) Director General, Deputy Director General and Inspector General of the Intelligence-Security Agency of BiH,
- 3) Director and Deputy Directors of the State Investigation and Protection Agency,
- 4) Directors and Deputy Directors of the State Border Service,
- 5) Heads of bodies or legal entities which have the competency and exercise duties within the scope of the areas stated in Article 8 of this Law and which are not separately mentioned in this Article,
- 6) Members of the Collegium of the House of Representatives and House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina,
- 7) Representatives in the House of Representatives and Delegates in the House of Peoples of the BiH Parliamentary Assembly,
- 8) Governor and Vice-Governor of the Central Bank of Bosnia and Herzegovina,
- 9) Ombudsman of Bosnia and Herzegovina and his deputies.

b) At the level of the Entities of Bosnia and Herzegovina:

- 1) Prime Minister and Ministers in the Governments of the Federation of BiH and Republika Srpska,
- 2) Members of the Collegia of Legislative Bodies of the Federation of BiH and Republika Srpska,
- 3) Representatives in the Legislative Bodies of the Federation of BiH and Republika Srpska,
- 4) Heads of bodies and administrations and/or legal entities at all levels in the Federation of BiH and Republika Srpska, which have the competency over the duties referred to in Article 8 of this Law,

c) At other levels of government organization of Bosnia and Herzegovina:

- 1) Mayor of the Brcko District,
- 2) Members of the Collegia of the Assembly of the Brcko District,
- 3) Representatives of the Assembly of the Brcko District,
- 4) Prime Minister and Ministers in Cantonal Governments,
- 5) Members of the Collegia of Cantonal Legislative Bodies,
- 6) Representatives in Cantonal Legislative Bodies,
- 7) Mayors of Cities and Municipalities in the Federation of BiH and Republika Srpska,
- 8) Chairpersons of Legislative Bodies of Cities and Municipalities in the Federation of BiH and Republika Srpska.

- (2) List of institutions and duties referred to in Paragraph a), point 5) and Paragraph b) point 4) shall be determined by the Council of Ministers of Bosnia and Herzegovina.
- (3) Persons referred to in Paragraph (1) shall have access only to secret data required for exercising their duties in accordance with the law and may not require access to documents which do not relate to the issues within their competency.

Article 7

(Access to secret data classified as RESTRICTED)

- (1) All persons exercising functions or working in a body shall have access to **RESTRICTED** secret data.
- (2) Persons referred to in Paragraph (1), at the beginning of their mandate or at the time of taking office, personally sign a **statement** certifying that they are aware of this Law and other appropriate regulations covering security of secret data and that they assume the obligation of treating secret information in accordance with this Law and other appropriate regulations.

Article 8

(Connotation of the term "secret data")

Data shall be considered secret if their disclosure to an unauthorized person, media, organization, institution, authority or other state and/or authority of other state could pose a threat to the integrity of Bosnia and Herzegovina, in particular in the following areas:

- a) public security,
- b) defence,
- c) foreign affairs and interests,
- d) intelligence and security interests of Bosnia and Herzegovina,
- e) communication and other systems important for state interests, judiciary, projects and plans significant for defence and intelligence-security activities,
- f) scientific, research, technological, economic and financial operations significant for the safe functioning of BiH institutions and/or security structures at all levels of the state organization.

Article 9 (Exceptions)

Classified character may not be specified for data if such classification is designated with the purpose of hiding the perpetration of a criminal offence, overriding or misuse of powers, aimed at hiding any illegal activity or hiding an administrative error.

Article 10 (Conditions for access to secret data)

Access to secret data shall be possible only under the conditions as stipulated by this Law and other bylaws issued on the basis of this Law, and/or international or regional agreements concluded by Bosnia and Herzegovina.

Article 11 (Safekeeping of secret data)

- (1) All officials referred to in Article 5, or Article 6 of this Law as well as other officials and employees with legal authorization to access secret data shall have an obligation to keep secret data regardless of the manner in which they were obtained, and this obligation shall also be applicable after termination of their mandate, cessation of employment and/or cessation of exercising the duty or membership in relevant state authority.
- (2) Officials and employees without a legal authorization to access secret data as well as citizens of BiH who acquire or gain access to secret data in a manner, which is not contrary to the law, shall assume the obligation to keep the data referred to in Paragraph (1).
- (3) Persons referred to in Paragraph (2) shall have the obligation to report to the manager of the body in which they are employed or to an authority of internal affairs any unauthorized access to secret data and give a statement about the circumstances under which they gained access to secret data.

Article 12 (Safekeeping of secret data of other state, international or regional organization)

- (1) Access, use, safekeeping and protection of secret data of other state, international or regional organization shall be made in accordance with law and bylaws issued on the basis of this law, and/or on the basis of an agreement concluded between Bosnia and Herzegovina on one side and other state, international or regional organization on the other side.
- (2) The access to secret data referred to in paragraph (1) shall require appropriate authorizations to be issued in accordance with the Law. All persons requiring the access to secret data referred to in paragraph (1) in the exercise of their duties shall have to pass security clearance and/or receive relevant authorization in accordance with the Law.
- (3) The Council of Ministers of Bosnia and Herzegovina shall, by a special regulation in accordance with the Law, regulate in more detail the issuance of authorization to access secret data referred to in paragraph (1).

CHAPTER II - CLASSIFICATION OF DATA

Article 13

(Persons authorized to assign levels of classification of data as restricted, confidential and secret)

- (1) Data shall be classified by an authorized person pursuant to legal requirements and procedure.
- (2) Degrees of classification RESTRICTED, CONFIDENTIAL and SECRET may be designated only by the following authorized persons:
 - a) Governor of the Central Bank of Bosnia and Herzegovina,
 - b) Chairpersons of Committees of the Parliamentary Assembly of Bosnia and Herzegovina,
 - c) President of the Court of Bosnia and Herzegovina and President of the Constitutional Court of BiH,
 - d) State Prosecutor of Bosnia and Herzegovina,
 - e) State Attorney of Bosnia and Herzegovina,
 - f) Prime Ministers of the Federation of BiH and Republika Srpska,
 - g) Speakers of legislative bodies of the Federation of BiH and Republika Srpska,
 - h) Presidents of all courts in the area of the Federation of BiH and Republika Srpska,
 - i) Prosecutors at all levels in the Federation of BiH and Republika Srpska,
 - j) Public attorneys at all levels in the Federation of BiH and Republika Srpska,
 - k) Mayor of the Brčko District,
 - l) Speaker of the Assembly of the Brčko District,
 - m) Prime Ministers of Cantonal Governments in the Federation of BiH,
 - n) Speakers of the cantonal legislative bodies in the Federation of BiH,
 - o) Officials referred to in Article 5, Paragraph a), Sub-Paragraph 5), and Paragraph b), Sub-Paragraph 4)
 - p) elected or appointed official who is authorized for classification, access, use, safe keeping and protection of secret data according to the Law, bylaws issued on the basis of this Law or who has been designated in writing by the authorized person, and
 - q) person who was, as an employee of the body, institution or organization concerned, designated in writing by the authorized person.
- (3) Authorized persons referred to in Paragraph (2), points p) and q) may not transfer authorizations to other persons.
- (4) Authorized persons referred to in Paragraph (2) must have an appropriate authorization or permit if required by the law
- (5) The Council of Ministers may, with consent of the Presidency of BiH and after consulting with the Director General of OSA BiH, allocate by a Decision the right to designate the classification RESTRICTED, CONFIDENTIAL and SECRET in the event that a new institution is established in BiH or in circumstances important for the security of BiH.

Article 14

(Persons authorized to assign the TOP SECRET level of classification)

- (1) The **TOP SECRET** level may be specified only by the following authorized persons:
 - a) Members of the BiH Presidency,
 - b) Chairman and Ministers in the BiH Council of Ministers,
 - c) Director General of the Intelligence-Security Agency of BiH,
 - d) Director of the State Investigation and Protection Agency,
 - e) Director of the State Border Service,
 - f) Speaker of the House of Representatives and Speaker of the House of Peoples of the BiH Parliamentary Assembly
 - g) Chairmen of Committees within the BiH Parliamentary Assembly in charge of intelligence, defence and security issues,
 - h) relevant military commanders as designated by the Minister of Defence of Bosnia and Herzegovina,
 - i) President and Vice-Presidents of the Federation of BiH and Republika Srpska

- (2) Persons referred to in Paragraph (1) may also designate degrees of classification RESTRICTED, CONFIDENTIAL and SECRET.
- (3) Authorized persons referred to in Paragraph (2) must have an appropriate authorization or permit if required by the law.
- (4) The Council of Ministers may, with consent of the Presidency of BiH and after consulting with the Director General of OSA BiH, allocate by a Decision the right to designate the classification TOP SECRET in the event that a new institution is established in BiH or in circumstances important for the security of BiH.

Article 15
(Classification of data in other bodies)

The procedure for classification of data in economic organizations and institutes shall be specified by the BiH Minister of Foreign Trade and Economic Relations with consent of the Minister of Defence of BiH and Minister of Security of BiH.

Article 16
(Proposal to classify data)

Each official, employee and person engaged in a BiH, Entity or any body, institution and organization at other levels of state organization in BiH shall be required to assess within the scope of his/her powers the security significance of data and propose to authorized persons classification of this data should he/she deem it necessary.

Article 17
(Data classification procedure)

- (1) The authorized person shall classify data at the moment of their creation and/or at the beginning of activities of the body creating secret data.
- (2) When assessing the level of classification, the authorized person shall be required to provide assessment on possible damage to the security of Bosnia and Herzegovina and/or appropriate institutions and organizations, in case that these data are accessible to an unauthorized person.
- (3) Based on the assessment referred to in Paragraph (2), data shall be assigned a classification level and they shall be marked in accordance with relevant provisions of this Law.
- (4) The assessment, which shall be used as the basis for classification, shall be provided in writing.

Article 18
(Other data classification cases)

- (1) In the event that two or more pieces of data that, by them, do not have the character of classified information but through interconnection represent data or a document to be protected, the authorized person shall be required to classify those data and/or document.
- (2) If a minor part of the document, which has been classified as mentioned in Paragraph (1) contains classified data only in one part, the authorized person shall be required to separate that part and attach it to the document with the designation of classification.
- (3) If secret data are used in compiling, redefining, paraphrasing or creating new secret data, they shall be properly classified.

Article 19
(Degrees of classification)

Secret data referred to in Article 8 of this Law shall have one of the following levels of classification:

- a) **TOP SECRET** shall be assigned to data the unauthorized disclosure of which would pose a threat to the integrity of Bosnia and Herzegovina and cause irreparable damage to the state,
- b) **SECRET** shall be assigned to data the unauthorized disclosure of which would cause extremely damaging consequences to security, political, economic and other interests of Bosnia and

- Herzegovina,
- c) **CONFIDENTIAL** shall be assigned to data the unauthorized disclosure of which might cause damage to the security or interests of Bosnia and Herzegovina,
 - d) **RESTRICTED** shall be assigned to data the unauthorized disclosure of which might cause damage to the activities of state authorities, bodies, organizations or institutions of Bosnia and Herzegovina.

Article 20
(International classification degrees)

- (1) All authorized persons shall have an obligation to mark secret documents with one of four degrees of classification referred to in Article 19.
- (2) In terms of designating degrees of classification of secret documents, in particular those intended for international cooperation with intelligence, defence or security institutions from other countries, international or regional organizations, apart from the terms referred to in Article 19, the following terms in the English language may also be used:
 - a) Degree “VRLO POVJERLJIVO” corresponds to the term “TOP SECRET”
 - b) Degree “TAJNO” corresponds to the term “SECRET”.
 - c) Degree “POVJERLJIVO” corresponds to the term “CONFIDENTIAL”.
 - d) Degree “INTERNO” corresponds to the term “RESTRICTED”.

Article 21
(Designating the lowest degree of classification)

- (1) In the procedure of designating a degree of classification, the authorized person must designate the lowest degree of classification, which ensures protection of data required for preservation of interest and security of Bosnia and Herzegovina.
- (2) A document with data for which a degree of classification was determined earlier must be given at least equal designation and period of classification, which was already given to the data.

Article 22
(Declassification of data)

- (1) The authorized person shall be required to declassify classified information when conditions as specified in this Law are created.
- (2) Explanation of a decision on declassification of classified information shall have to be in writing and the declassification concerned may be required by a person whose request for obtaining the information was rejected, which is to be decided by the responsible person.

Article 23
(Changing the degree of classification)

The level of classification may be changed by the person who specified that level when the conditions as specified by this Law are determined.

Article 24
(Manner of classification labelling)

- (1) Each piece of classified data and/or document containing classified data shall have to be designated as follows:
 - a) degree of classification,
 - b) the manner of classification expiration,
 - c) data on authorized person, and
 - d) data on the body, organization or institution who’s authorized person specified the classification.
- (2) Designations referred to in Paragraph (1) of this Article, shall be used in accordance with the type and character of a medium, and each piece of information or document shall have to be processed as

classified if designated with a level of classification.

- (3) The Council of Ministers of BiH shall, by a separate regulation, specify in more detail manners and types of designations for classification of data and physical, organizational and technical measures and procedures for keeping such secret data.

Article 25
(Classification cessation)

- (1) Classification status of data and/or documents shall cease:
 - a) on specified date,
 - b) upon termination of specific event,
 - c) after elapse of specified time, and
 - d) declassification by authorized person.
- (2) If it is not possible, due to the nature of secret data substance, to specify the manner for expiration of data classification, in such a case its classification shall cease after expiration of the time stipulated by the Law on Archive Material ("Official Gazette of BiH", 16/01).
- (3) The authorized person may change the manner and deadline for cessation of data classification if justified by well-founded reasons, whereat all those who had access to the data concerned shall be obligatorily informed on that fact.

Article 26
(Negation of secret data existence)

- (1) If the very fact of confirmation of existence of specific classified data has damaging consequences to the security of Bosnia and Herzegovina and its interests, a BiH, Entity or an body, organization or institution at any other level of BiH state organization shall not be required to confirm or negate the existence of such information despite the requests of interested parties.

Article 27
(Changing data classification)

- (1) A legal user of classified data may propose to the authorized person the change in classification if he or she deems that the classification is not justified or specified in the appropriate manner.
- (2) The authorized person shall be bound to consider the proposal referred to in Paragraph 1 and notify the proponent on his/her decision.

Article 28
(Furnishing data of another state, international or regional organization)

- (1) The classified information of another state, an international or a regional organization shall, as a general rule, retain the marks used in that particular state, international or regional organization. However, it is also possible to mark this information in accordance with the Law provided that a relevant level of secrecy and manner of keeping the secrecy of data must be appropriately ensured.
- (2) States, international and regional organizations shall furnish the data referred to in Paragraph (1) to the body to be designated by the Council of Ministers of BiH. That body will be charged with the reception and treatment of information referred to in paragraph (1) and upon their receipt, it shall distribute the data to authorized persons in the institutions and bodies in BiH for whom they are intended, on which they shall keep detailed records.
- (3) Contracts with international and regional organizations may specify another institution for reception of data referred to in Paragraph (1). The institution specified by an agreement shall have an obligation to specify structures and persons in positions for reception of secret data, keep detailed records thereon and submit monthly reports to the body referred to in paragraph (2).
- (4) Authorized persons within the body referred to in paragraphs (2) and (3) must have permission to access secret data of the degree TOP SECRET.
- (5) If the data referred to in Paragraph (1) are furnished through diplomatic and consular offices or delegations of BiH in another state, international or regional organization, a special decision shall be

made to designate a person who would be in charge of such delivery. This person, as well as the head of diplomatic and consular office or delegation must have permission to access secret data of the degree TOP SECRET.

Article 29
(International treaties)

It is necessary to determine, by international bilateral and multilateral treaties on the exchange of classified information to be signed by Bosnia and Herzegovina and other states, international and regional organizations, the way of marking the classified information of Bosnia and Herzegovina in other states and international organizations which shall be responsible for ensuring the necessary level of protection of the data in accordance with provisions of this law.

CHAPTER III – SECURITY CLEARANCE AND AUTHORIZATION TO ACCESS SECRET DATA

Article 30
(Extent of security clearance)

- (1) Persons holding office or working within the body, as well as persons applying to the position within the body that produces, manages or keeps secret data and/or works on intelligence or defence and security issues shall be subject to basic security checks in line with the procedure for the issuance of an authorization to access secret data classified as CONFIDENTIAL.
- (2) The list of bodies referred to in Paragraph 1 shall be established by the Council of Ministers of Bosnia and Herzegovina.
- (3) The manager of the body i.e. institution shall, within 30 days of the adoption of the list referred to in Paragraph 2, send a request for security checks referred to in Paragraph 1 to the Intelligence-Security Agency of Bosnia and Herzegovina (BiH OSA) and enable the Agency to access all documentation necessary for the security check.
- (4) The security check shall be carried out by the BiH OSA, which shall deliver the security check results along with its recommendation, which may incorporate opinions of relevant bodies referred to in Paragraph 5 of this Article and Article 56 of the Law, to the manager of the body that employs the relevant person or wherein the relevant person carries out his/her duties or wherein he/she applies for a position. The manager of the body shall issue a decision on presence or absence of security concern.
- (5) In performing security checks relevant internal competent structures of the body referred to in Paragraph 1, if any, shall be required to cooperate with the Intelligence Security Agency of BiH.
- (6) Persons referred to in Paragraph 1 shall be subjected to security check every ten years in accordance with the procedure of issuing authorization to access secret data of the degree CONFIDENTIAL.

Article 31
(Exercise of security checks)

- (1) Security checks for persons applying to the position/post within the body referred to in Article 30, Paragraph (1), shall be carried out before their appointment or employment. If a security-related concern has been established, the person shall not be appointed or employed for the position for which the security check has been performed.
- (2) The person for whom security-related concern relevant to the position or employment in the body referred to in Article 30 Paragraph 1 has been established, may file an appeal before the Intelligence and Security Committee of the BiH Parliamentary Assembly in charge of overseeing the OSABiH within 15 days as of the submission of the notice on the existence of security-related concerns. The Committee shall appraise the appeal and pass a decision, which it shall deliver to the head of the body referred to in Article 30.
- (3) The head shall deliver the decision of the Committee to the person who was subjected to the security check, in writing and within eight days from the adoption day.
- (4) An administrative dispute may be initiated before the relevant court in Bosnia and Herzegovina against the final decision establishing the existence of security-related concerns for exercise of duties or holding a position, within 30 days.
- (5) Subsequent to the completion of the procedure before the relevant law, the person for whom the

existence of a security-related concern was not determined shall have all the rights as specified by the law.

Article 32
(Status of persons)

- (1) The legal labor-related status of persons referred to in Article 30, Paragraph (1) shall remain unchanged on the day of the entry into force of this Law, until such time as the security check procedure has been completed in line with this Law.
- (2) Persons for whom a security concern has been determined by a decision issued by a relevant authority may no longer exercise the duty or hold a position for which the security clearance was carried out.
- (3) Provisions regulating redundancy in laws governing this field shall be applied to persons referred to in paragraph (2). Exceptionally from the provisions of these special laws, the redundancy in this case shall also occur when security concern has been determined by a decision issued by a relevant authority.
- (4) The persons referred to in Paragraph 2 shall be declared redundant and/or shall be put at disposal when the decision made in accordance with Article 31 becomes final. The relevant authority for making a decision on the redundancy shall be specified by a special law. These persons shall be reassigned exclusively to vacant positions in the same or a different institution in line with the Law. In the event that the reassignment of the said persons is not possible due to non-existence of similar job posts their employment shall be terminated and severance pay shall be paid out in line with the Law.
- (5) Legal remedies shall be allowed against the decision declaring persons redundant, making them available for reassignment, reassigning them, terminating their positions and paying severance pay, if specified by special laws regulating this area.
- (6) Final decisions made with respect to legal remedies may be subject to legal proceedings, if they are stipulated by a special law regulating this area, but the final decisions referred to in Articles 30 and 31 of the Law may not be the subject of a review in the proceedings referred to in paragraph (5) both appellate and court.

Article 33
(Exception for armed forces of BiH and police bodies in BiH)

- (1) Notwithstanding Articles 30 and 31 of this Law, the basic security clearance shall be made for the following persons by an internal organizational unit within the BiH Ministry of Defence designated by the Defence Minister:
 - a) professional military personnel in the Armed Forces of BiH,
 - b) reserve force in the Armed Forces of BiH,
 - c) other military personnel in the Armed Forces of BiH as provided by law,
 - d) civil servants, employees, and other officials in BiH defence institutions.
- (2) Notwithstanding Articles 30 and 31 of this Law, the basic security clearance shall be made by the Internal Control Department of the State Investigation and Protection Agency for the following persons:
 - a) police officers,
 - b) civil servants and employees in the police and other security bodies/authorities of BiH.
- (3) For the purpose of this Law, the security bodies shall mean: the Ministry of Security of BiH, NCB Interpol, and administrative institutions responsible for policing in BiH.
- (4) The persons referred to in paragraph (1) shall be subject to the basic security clearance in accordance with the procedure for issuance of authorizations for access to secret data of the degree CONFIDENTIAL.
- (5) The exception referred to in this Article shall not apply to those persons who are subject to security clearance for the purpose of getting the authorization and they shall be subject to the procedure provided by the Law.
- (6) The basic security clearance carried out as provided by this Article may be considered for the purpose of issuing the authorization to access secret data of the degree CONFIDENTIAL, in accordance with this Law.

Article 34
(Design and contents of documents)

- (1) An authorization to access secret data classified as CONFIDENTIAL, SECRET and TOP SECRET shall be issued in line with this Law.
- (2) Design and contents of the authorization, Statement and other documents defined by this Law shall be established by the State Security body, unless prescribed otherwise.
- (3) Documents referred to in paragraph (2) shall be appropriately classified in line with this Law.

Article 35
(Request for issuance of authorization)

- (1) The manager of the body in which the person who is subject to a security check works or exercises duty shall apply for issuance of the authorization to the Minister of Security of BiH or the Minister of Defense of BiH in accordance with Articles 36 and 37 of this Law.
- (2) The list of jobs or positions which are subject to issuance of the authorization shall be specified and included in the job classification by the manager of the body referred to in Paragraph (1) by a decision.

Article 36
(Persons competent to issue authorization)

- (1) The Minister of Security of Bosnia and Herzegovina, or Deputy Minister of Security upon Minister's authorization, taking into account the opinion of the Intelligence-Security Agency of BiH which may incorporate opinions of other relevant bodies referred to in Paragraph 5 of Article 30 and Article 56, shall issue the authorization to access secret data to persons who require access to secret data in order to perform their duties in the Council of Ministers (CoM) of BiH, or the Intelligence Security Advisory Group of the CoM BiH, BiH Data Protection Commission, members and the Secretary of the Security-Intelligence Committee for Monitoring the Legality of the BiH OSA operations, members and the Secretary of the Joint Committee for Defence and Security Policy and the Monitoring of Defence and Security Structures at the BiH level, as well as authorized officials of the Intelligence-Security Agency of BiH, in line with this and other special laws.
- (2) As an exception from Paragraph 1 and Article 37, Paragraph 1, the Minister of Defence, in agreement with his Deputies and considering the opinion of the Intelligence-Security Agency of BiH which shall incorporate opinions of other relevant bodies referred to in Article 30, Paragraph 5 and Article 56, shall issue the authorization to access secret data to persons who need secret data access in order to perform their duties in the BiH Ministry of Defence and other civilian and military structures of the BiH Armed Forces, in line with this and other special laws.
- (3) Exceptionally from the provisions of paragraphs (1) and (2) and Article 37, paragraph 1, the authorization to access secret data to the Minister of Security of BiH and the Minister of Defence of BiH shall be issued, in line with the Law, by the Head of the body referred to in Article 75 of the Law.
- (4) The Minister of Security of BiH and/or the Minister of Defence of BiH shall be obliged to inform the Security-Intelligence Committee of the Parliamentary Assembly of BiH for Overseeing the BiH OSA Operations (hereinafter: the Committee) about the issuance of authorizations referred to in paragraphs (1) and (2), on a monthly basis and as may be required. The written report shall be sent to the Committee but it does not exclude oral presentation of reports to the Committee.

Article 37
(Authorization issuance to other bodies)

- (1) The Minister of Security of Bosnia and Herzegovina, or Deputy Minister upon Minister's authorization, shall issue the authorization to persons who require access to secret data in order to perform their duties and tasks in other bodies of BiH, Entities and bodies at other levels of the state organization of BiH, taking into account the opinion of the Intelligence-Security Agency of BiH which shall incorporate opinions of other relevant bodies referred to in Article 30 Paragraph 5 and Article 56.
- (2) The Minister of Security shall be obliged to inform the Committee, in writing, on issued authorizations referred to in Paragraph 1, on a monthly basis or as may be required.

Article 38
(Types of security clearance)

Based on the nature of secret data to be accessed by a person before he/she is granted the authorization, the authorized official shall ensure the following:

- a) **a basic security check** for the appointment to the office or employment within the body and issuance of the authorization to access information classified as CONFIDENTIAL,
- b) **an extended security check** for the issuance of the authorization to access information classified as SECRET,
- c) **an extended security check** along with a security investigation for the issuance of the authorization to access information classified as TOP SECRET.

Article 39
(Basic security check)

- (1) **The basic security check** shall be conducted by the Intelligence-Security Agency of Bosnia and Herzegovina (hereinafter: the BiH OSA) by checking the information for a person identified in the Basic Security Check Questionnaire.
- (2) The information from this Questionnaire filled out by a person subject to the security check shall be compared with information from the official records of the BiH OSA, as well as other competent State bodies and other relevant sources of information specified in a separate rulebook, issued by the Council of Ministers of BiH, which has been harmonized with this law.
- (3) If suspicion about a security-related concern arises in the process of conducting a basic security check for a person, the BiH OSA shall make an additional check of the information causing the security-related concern, but only with prior consent of the person subject to security check who shall be informed of the basis for a security-related concern. In case the person subject to security check consents to this additional check, he/she shall confirm it by filling out and signing the first part of the Additional Questionnaire. However, if the person fails to do that, the General Director of BiH OSA shall inform the Minister of Security and/or Minister of Defence in line with Articles 36 and 37 (hereinafter: persons responsible for the issuance of authorizations) who shall refuse to issue the authorization to access secret data on the basis of a suspicion on the existence of a security-related concern.

Article 40
(Extended security check)

- (1) **The extended security check** shall be conducted by the BiH OSA on the basis of the filled out Basic and Special Questionnaires and information from other bodies and sources, as well as the BiH OSA records.
- (2) If suspicion about a security-related concern arises in the process of conducting the extended security check, the BiH OSA may, if required, on the basis of a written consent of the person subject to the security check, take further security checks by means of the first part of the Additional Questionnaire, signed by the person. However, if the person subject to security authorization fails to give his/her consent, or fails to fill out and sign the first part of the Additional Questionnaire, the General Director of BiH OSA shall inform the persons responsible for the issuance of authorizations who shall refuse to issue the authorization to access secret data on the basis of a suspicion on the existence of a security-related concern.

Article 41
(Extended security checks along with a security investigation)

- (1) The BiH OSA shall conduct **extended security checks** along with a security investigation on the basis of completed Basic and Special Questionnaires and by interviewing the individuals listed by the person subject to security check in the first part of the Additional Questionnaire and who can confirm the information presented in the Questionnaire, i.e. by checking the allegations in a Special Statement.
- (2) If the suspicion on the existence of a security-related concern is not sufficiently clarified by checking the information from paragraph (1), the BiH OSA can check the authenticity of the suspicion with other

persons, bodies or organizations that can assist in the proper completion of the extended security check along with security investigation.

Article 42
(Additional checks)

- (1) If a suspicion on the existence of a security-related concern is the result of circumstances concerning a marital or extra-marital partner, or any other person of age living together with a person subject to security check, the person shall fill out the Second Part of the Additional Questionnaire.
- (2) Authorized officials of the BiH OSA can also interview persons referred to in Paragraph 1 in order to clarify the authenticity of a security-related concern, but only after they consent to the basic security check in writing.
- (3) Basic security checks in the aforesaid case shall be subject to the same procedure as outlined in Article 39 of this law.

Article 43
(Authorization issuance)

Persons responsible for the issuance of authorizations shall:

- a) issue the authorization to access secret data classified as CONFIDENTIAL, following the completion of a basic security check and if no security-related concerns have been established,
- b) issue the authorization to access secret data classified as SECRET, following the completion of the extended security check and if no security-related concerns have been established,
- c) issue the authorization to access secret data classified as TOP SECRET, following the completion of the extended security check, along with a security investigation and if no security-related concerns have been established.

Article 44
(Authorization issuance and refusal to issue)

- (1) The authorization referred to in Article 43 shall be given to a person subject to security check while the head of the body, organization or institution requesting the security check shall be informed in writing about the issuance of the authorization.
- (2) If the persons responsible for the issuance of authorizations refuse to issue the authorization to access secret data on the basis of the authenticated security-related concern, they shall be obliged to present the reasons causing a security-related concern. Persons responsible for the issuance of authorizations shall not be obliged to elaborate on sources and methods of the security check.

Article 45
(Appellate procedure)

- (1) The person subject to security check can lodge a complaint in writing against the Decision of the persons responsible for the issuance of authorizations to reject his/her request for the issuance of the authorization to access secret data, within fifteen days as of the forwarding of the Decision, with the Security-Intelligence Committee of the Parliamentary Assembly for Overseeing the BiH OSA Operations. The Committee shall consider the complaint and issue a decision, which shall be delivered to the person responsible for the issuance of authorization who rejected the request. The person responsible for the issuance of authorization shall deliver the written decision of the Committee to the person subject to a security check within 8 days from the day of the issuance of the Decision.
- (2) An administrative dispute against the final decision rejecting the issuance of authorization to access secret data may be initiated before the Court of Bosnia and Herzegovina within 30 days.
- (3) The submission of the Complaint or the initiation of administrative dispute shall not stay the execution of the Decision referred to in Paragraph 1.
- (4) Subsequent to the completion of the procedure before the relevant law, the person for whom the existence of a security-related concern was not determined shall have all the rights as specified by the law.

Article 46
(Cooperation in security checks)

The BiH OSA and other competent State bodies, organizations and institutions of Bosnia and Herzegovina can cooperate in the process of conducting the security check of a certain individual in accordance with the agreement signed with another state or international or regional organization with full respect to provisions of BiH legislation concerning the protection of personal data and relevant provisions of the Law on the Intelligence and Security Agency of Bosnia and Herzegovina (*Official Gazette of BiH, 12/04 and 20/04*).

Article 47
(Formal requirements for security checks)

- (1) Prior to the commencement of the security check, the managing person shall take activities in order to inform, in advance, persons who are subject to security check about:
 - a) regulations governing secret data processing,
 - b) an obligation to obtain the authorization to access secret data of a certain classification,
 - c) contents of a security check and a procedure for obtaining the authorization,
 - d) an obligation of the person subject to security check to give his/her consent in writing, fill out the relevant Questionnaire, sign the Statement that he/she has been informed of regulations in the secret data processing area, and that he/she will act in accordance with the said regulations.
- (2) Persons subject to security check may not refer to the failure to meet obligations of item a), b) or c) of paragraph (1) in order to prevent or challenge the security check.

Article 48
(Types of Questionnaires)

The relevant questionnaires referred to in Article 47, Paragraph (1), item d) for obtaining the authorization to access secret data of different classification shall be as follows:

- a) **the basic questionnaire** for obtaining the authorization to access secret data classified as CONFIDENTIAL,
- b) **the basic and special questionnaire** for obtaining the authorization to access secret data classified as SECRET,
- c) **the basic, special and the first part of the additional questionnaire** for obtaining the authorization to access secret data classified as TOP SECRET.

Article 49
(Contents of the Basic Questionnaire)

The Basic Questionnaire shall contain the following information:

- a) Name and surname, including those previously held,
- b) Unique personal number (PIN),
- c) Date and place of birth,
- d) Citizenship(s), including those previously held,
- e) Address of residence (permanent and temporary residence),
- f) Any stay abroad if longer than three months,
- g) Marital status, personal data on marital or extra-marital partner and persons of age living together with the person subject to the security check,
- h) Qualifications, profession and the current field of work,
- i) Former employers and their addresses,
- j) Military service and engagement in armed forces or different armed formations,
- k) Education, participation in seminars or other forms of education and professional advancement abroad if longer than three months,
- l) Legally binding verdicts due to criminal acts and/or decisions on minor offences referred to in this Law,

- m) Ongoing court proceedings,
- n) Addiction to alcohol, drugs and other forms of addiction,
- o) Contacts with foreign security or intelligence services,
- p) Membership in or cooperation with organizations that advocate terrorism or other anti-constitutional means of changing the constitutional order of Bosnia and Herzegovina,
- q) Disciplinary measures pronounced in the last two years due to violation of regulations on secret data processing,
- r) Earlier security checks in accordance with the laws applicable at the time,
- s) Earlier security checks in accordance with the provisions of this Law,
- t) Disclosure form of the person subject to security check and persons referred to in item g) of this Paragraph.

Article 50
(Contents of the Special Questionnaire)

The Special questionnaire shall contain the following information:

- a) participation in foreign armed forces or other armed formations
- b) tax number
- c) financial liabilities and liabilities originating from a guarantor status,
- d) characteristics, affiliations and other circumstances, which could serve as a motive for blackmail or other forms of pressure on the person subject to security clearance.

Article 51
(Contents of the Additional questionnaire)

Additional questionnaire shall consist of two parts:

- a) full names and addresses of three persons who can verify the claims from the questionnaire; these cannot be persons referred to in Article 49, Paragraph (1), item g) or if the person subject to security checks cannot list the requested names due to justified reasons, he/she shall give a special statement about the reasons for being unable to list the said names and all other issues required by BiH OSA or persons responsible for authorization issuance, which they shall take into account in the process of adopting the decision to issue the authorization
- b) data on persons referred to in Article 49, Paragraph (1), item g) subject to a security check in accordance with this Law.

Article 52
(Obligations related to filling out questionnaires)

Persons filling out the questionnaires referred to in Article 49, 50 and 51 shall be obliged to provide accurate and detailed answers to all questions in the Questionnaire. In case the person does not have anything to report to a question, he/she shall write, under full legal accountability, that there is nothing to report on the question.

Article 53
(Period of security checks)

- (1) The information from the basic, special and additional questionnaire shall be verified in the process of issuance of the authorization to access secret data classified as CONFIDENTIAL, SECRET and TOP SECRET for the period of the last fifteen years.
- (2) Any further security checks obligatory under law to issue the authorization to access secret data designated as CONFIDENTIAL shall encompass the last ten-year period, the authorization for secret data designated as SECRET and TOP SECRET shall encompass the last five-year period.

Article 54
(Medical examination)

- (1) In case in the process of security check there arises a suspicion that the person is addicted to alcohol, drugs or that he/she has other inappropriate forms of addiction, the BiH OSA Director General may propose in writing that the person subject to security check undergo a medical examination in a competent institution. If the person subject to security check fails to accept the proposal, the persons responsible for the issuance of security authorization shall pass a Decision refusing the issuance of authorization to access secret data.

Article 55
(Secrecy of data source)

- (1) The BiH OSA, that is, persons responsible for the issuance of security authorization shall not be obliged to provide the information on illegal cooperation of persons subject to security checks with foreign intelligence and security services, in case that it would endanger the sources, manner of obtaining information and the process of verification of disputable information.
- (2) Data referred to in Paragraph (1) shall be presented before the Intelligence and Security Committee of the BiH Parliamentary Assembly in charge of overseeing the BiH OSA during an appellate procedure or a judge in the BiH Court during a court proceeding, if that is assessed necessary for the proceeding.
- (3) The persons referred to in Paragraph (2) shall possess appropriate authorization in line with law.

Article 56
(Cooperation with other competent authorities)

- (1) Beside its operative knowledge and records, the BiH OSA shall verify certain information from the basic, special and additional questionnaires through cooperation with employers, courts, prosecutor's offices, structures in the Armed Forces of BiH, police authorities in BiH as well as tax, customs, and other competent state, entity and other bodies.
- (2) Bodies referred to in paragraph (1) shall be obliged to cooperate with OSA BiH in the process of the Law enforcement.
- (3) Bodies referred to in paragraph (1) shall also be obliged to cooperate with the bodies referred to in Article 33, paragraphs (3) and (4) in the process of security clearance stipulated in Article 33.

Article 57
(Additional checks in the event of a suspicion on security-related concerns)

- (1) If, due to a violation of regulations governing secret data processing, a disciplinary procedure has been initiated against a person who is already in the possession of an authorization to access secret data, or criminal proceedings have been initiated against that person on grounds of a suspicion that he/she committed a criminal act, or there is ground to believe in the existence of a security-related concern in accordance with the provisions of this Law, the head of the body, organisation or institution in which the person subject to security clearance works on access, use, safekeeping or protection of secret data shall be obliged to inform the persons responsible for the issuance of security authorization about the aforesaid development.
- (2) If the persons responsible for the issuance of security authorization assess establish that there is a reasonable doubt, they shall address a request for additional security checks to the BiH OSA.
- (3) In the case referred to in Paragraph 1 it shall not be necessary to acquire the consent of the person subject to security check, but it shall be the duty of the head, immediately upon the initiation of the process of additional security check, to temporarily prevent the person from accessing secret data pending the completion of the process, on which a decision shall be passed.

Article 58
(Repeated security checks after obtaining authorization)

- (1) A person who has access to secret data classified as CONFIDENTIAL shall be subject to obligatory security check every ten years, and a person who has access to secret data classified as SECRET and TOP SECRET shall be subject to clearance at least every five years.
- (2) The procedure of repeated security check shall be identical to the first security check procedure, unless stipulated otherwise by law or an international treaty between Bosnia and Herzegovina and another

state, international or regional organisation.

- (3) If in the new security check the BiH OSA establishes a security-related concern, the persons responsible for the issuance of security authorization shall pass a Decision withdrawing the authorization and inform the person subject to security check and the head of the state body, organisation or institution in which the person in question has access to secret data thereon.
- (4) From the moment the head receives the Decision referred to in Paragraph 3, he/she shall be obliged to prevent the person whose authorization was withdrawn from accessing secret data.

Article 59 **(Security-related concerns)**

- (1) The security-related concerns that serve as the ground for rejecting the issuance of Authorization to access secret data shall be the following:
 - a) proven false allegations in the questionnaire,
 - b) final court verdicts to at least three-month imprisonment,
 - c) existence of one or more final court verdicts due to offences referred to in Article 49, item 1 of this Law,
 - d) conduct of criminal proceedings for offences subject to at least three month imprisonment sentence,
 - e) conduct of proceedings before the International Criminal Tribunal for Crimes Committed on the Territory of the Former Yugoslavia,
 - f) established existence of security-related concerns regarding one or more statements made in the security clearance questionnaire which serve as ground for suspicion about the credibility, loyalty to the state and confidentiality of the person to be provided access, use, safekeeping and protection of secret data, in particular:
 - 1) unauthorized contact with members of organized criminal groups, terrorist organizations and organizations which support them financially or in other ways or a membership in the said,
 - 2) unauthorized contact or cooperation with persons in intelligence, security or military structures of other states,
 - 3) disclosure or commenting on the secret data, documents or activities to unauthorized persons, especially intelligence and security agencies of other states or public media,
 - 4) excessive indebtedness leading to financial problems and representing a proven possibility for blackmail or any other forms of pressure on the person subject to security checks,
 - 5) established inexplicable enrichment from an unknown source or a source associated with organizations referred to in lines 1 and 2,
 - 6) refusal to provide answers or information, or proven instance of preventing other persons to give answers or information requested by the BiH OSA, persons responsible for issuance of authorization or the Committee.
 - g) existence of other security-related concerns stipulated by this Law or international agreements.
- (2) The BiH OSA in cooperation with relevant authorities referred to in Article 30, Paragraph (5) and Article 56 shall be obliged to collect and present the evidence on security-related concerns referred to in Paragraph (1).

Article 60 **(Records)**

- (1) Heads of bodies, organizations and institutions of Bosnia and Herzegovina, Entities and other levels of state organization of Bosnia and Herzegovina shall archive the records on authorizations and data collected during security clearance in a separate part of personal files, and the said may be used exclusively in relation to this Law and/or implementation of by-laws adopted on the basis of this Law.
- (2) Responsible persons referred to in Paragraph (1) shall be accountable for the safety and protection of the records referred to in Paragraph (1).

Article 61

(Application of regulations in the event of Authorization withdrawal)

- (1) When the persons responsible for the issuance of security authorization withdraw the authorization from a person who has access to secret data, he/she shall be declared redundant and/or placed at disposal as of the date the decision becomes final in line with Article 45. The redundant person shall be reassigned exclusively to vacant positions in the same or a different institution in line with the Law. In the event that the reassignment of the said persons is not possible due to non-existence of similar posts their employment shall be terminated and severance pay shall be paid out in line with the Law.
- (2) The persons referred to in Paragraph (1) shall be subject to provisions regulating redundancies in laws regulating this area. Notwithstanding the provisions of these special laws, redundancy shall also occur when it is found, by a decision of a responsible authority, that a security-related concern exists in relation to a person.
- (3) An appeal, complaint or motion to review may be initiated against decisions on declaring redundant, placing at disposal, transfer, termination of employment and severance pay provided that the said are envisaged in a special law.
- (4) A court dispute may be initiated against final decisions on appeal, complaint or motion to review, if provided for in a special law, but the final decisions referred to in Articles 36 and 37 of the Law may not be the subject of the review in the proceedings referred to in paragraph (3) both appellate and court.

Article 62

(Central registry and data keeping)

- (1) The Council of Ministers of BiH shall issue a decision on the Central registry to maintain official records on authorizations issued to all persons who are entitled to access secret data classified as CONFIDENTIAL, SECRET and TOP SECRET.
- (2) Records on the authorizations referred to in Paragraph (1) shall contain the following information:
 - a) name, surname, Personal Identification Number, date, place and state of birth, citizenship of a person,
 - b) the body which employs the person concerned,
 - c) degree of classification that can be accessed by the person concerned,
 - d) statements on repeated security checks,
 - e) number, date of issuance and date of expiry of the authorization,
 - f) written approval for security checks, and
 - g) other documents relevant to security checks.
- (3) All information relevant to security clearance shall be kept for as long as the security authorization is valid, i.e. for as long as the person is entitled to access secret data, after which the information shall be treated in accordance with the laws regulating the issue of the personal data protection.
- (4) The documents referred to in Paragraph (1) in case of persons who have not passed security checks that is who have not been issued authorization shall be stored in records referred to in Article 60.
- (5) The Central registry referred to in paragraph (1) shall also receive and distribute secret data.

Article 63

(Temporary access to secret data)

- (1) A person who holds an authorization may temporarily be provided access to secret data classified at one level higher than the level the person is entitled to.
- (2) The access from Paragraph (1) of this Article, shall be provided on the basis of a written request by the head, which shall be sent to the persons responsible for the issuance of authorization along with an explanation as to why this is required and a restriction to only those data necessary for the implementation of a certain activity but the aforesaid temporary period may not exceed three months.

CHAPTER IV – ACCESS TO SECRET DATA AND THEIR SAFEKEEPING

Article 64

(Right of access to secret data)

- (1) Only persons who were granted authorisation by the persons competent for granting authorisation shall be entitled to access secret data of the secrecy level stated in the authorisation when performing their duties or within their tasks.
- (2) No one may request secret data prior to and to an extent larger than required for performing certain duties or tasks.

Article 65
(Disposing of secret data)

Secret data may be provided to other state, entity or bodies at other levels of the state organisation of Bosnia-Herzegovina, which act in accordance with this Law, i.e. to the authorised persons in those bodies, for their disposal, only on the basis of a written authorisation by the head of the body designating the data as secret.

Article 66
(Conditions of secret data exchange)

The authorised person may forward secret data to a state, entity or body, organisation or institution at other levels of the state organisation of Bosnia and Herzegovina as well as legal entities referred to in Article 3, Paragraph (1) of this Law, only under the following conditions:

- a) if the user of such secret data meets physical, organisational and technical requirements for safekeeping secret data in accordance with this Law and by-laws harmonised with this Law;
- b) if persons who access secret data have an authorisation of the appropriate level;
- c) if authorised persons, having been granted access authorisation, sign a written statement acknowledging the contents of this Law, other applicable regulations and take up an obligation to use the secret data in accordance with the aforesaid regulations;
- d) if a state body, organization or institution guarantees that the access to secret data shall only be given to authorised persons who require the access for the performance of their official duties.

Article 67
(Restriction of secret data exchange)

The legally authorised user who receives secret data from an authorised person may not make it available to other users without the person's consent, except in cases provided by the Law and regulations.

Article 68
(Oversight and records)

The authorised person shall have permanent oversight over secret data distribution and shall keep updated records that clearly show the time of access and the identity of persons who accessed secret data.

Article 69
(Procedure of safekeeping secret data)

- (1) All state, entity and body, organisation or institution at other levels of state organisation of Bosnia and Herzegovina that use secret data shall establish, in accordance with this Law and relevant by-laws, a system of procedures and decisions of importance for secret data safekeeping, which shall be harmonized with the secrecy level and guarantee the prevention of unauthorised data disclosure.
- (2) The procedures referred to in Paragraph (1) of this Article, shall include but not be limited to:
 - a) general security-related decisions;
 - b) protection of persons entitled to access to secret data;
 - c) protection of premises;
 - d) protection of documents and media containing secret data;
 - e) protection of communications used for secret data transfer;
 - f) manner of classification;
 - g) protection of secret data processing equipment;

- h) manner of informing users about decisions and secret data protection procedures;
- i) oversight and registration of secret data access;
- j) oversight and registration of forwarding and distribution of secret data.

Article 70
(Measures and procedures of secret data protection)

- (1) Secret data shall be kept in a manner ensuring the information access is granted only to persons with the secret data access authorization of the appropriate level, who need such information during performance of their duties and tasks.
- (2) Secret data may be transferred outside the user's premises only in conformity with the protection measures and under the procedures guaranteeing that only persons holding authorizations of appropriate levels will access the information.
- (3) Procedures and decisions related to secret data transfers shall be issued by responsible managers in line with the level of classification, provided that the transfer may not be carried out through unprotected communication systems.
- (4) The Council of Ministers of BiH shall stipulate the physical, organisational and technical measures and procedures for the protection of secret data and documents in more detail by a special regulation referred to in Article 24.

Article 71
(Procedure in case of disappearance, destruction or unauthorised disclosure)

- (1) Officials, civil servants and other employees in state, entity and bodies, organisations and institutions at other levels of state organisation of Bosnia and Herzegovina who establish a disappearance, destruction or unauthorised disclosure of secret data shall be obliged to immediately inform the authorised person accordingly.
- (2) The user or recipient of secret data who establishes a disappearance, destruction or unauthorised disclosure of secret data shall be obliged to immediately inform the authorised person in the body that transferred the data accordingly.
- (3) The authorised person from Paragraph (2) of this Article shall immediately take measures aimed at establishing the circumstances and the responsibility for the disappearance or disclosure of the secret data to an unauthorised person, and take appropriate measures to redress the damage.

Article 72
(Training on secret data protection)

- (1) After the security clearance is carried out and the authorisation of access to secret data granted, the authorised persons shall pass a training on secret data protection, in order to acquire appropriate knowledge on the following questions:
 - a) provisions regulating the issue of the protection of secret data and legal responsibility for their disclosure,
 - b) principles of the protection of secret data to the extent necessary for performing tasks or duties, and
 - c) other questions that are considered important for authorised persons taking into account their jobs or positions.
- (2) The body referred to in Article 75 shall be the executive proponent in establishing the programme of education on security, aimed at directing and training all authorised persons on the Law as well as those who have a need to access such information. This programme shall be adopted, regulated and implemented by each institution or body that has a need for access to secret data.
- (3) The programme of security education shall be regulated by a special rulebook to be adopted by the Head of the body referred to in Article 75.
- (4) The cost of training shall be born by the institution or body in which the authorised persons are employed.

V - SUPERVISION

Article 73
(Internal oversight)

- (1) Heads of state bodies, ministries, administrations, institutes, services, organizations and institutions shall be responsible for organising internal oversight over the implementation of this Law.
- (2) In the Ministries of the Council of Ministers of BiH, Armed Forces of BiH, Intelligence and Security Agency of BiH, State Investigation and Protection Agency, State Border Service, administrations and independent state, entity and services and institutions at other levels of state organisation of Bosnia and Herzegovina, special positions shall be systemised for the duties of internal oversight over secret data protection, to which authorised employees shall be distributed, or special organisational units shall be established within a Ministry, administration, institute, agency, service and institution.

Article 74
(Substance of internal oversight)

- (1) Internal oversight shall ensure regular monitoring and assessment of individual activities in the implementation of this Law and relevant by-laws and decisions passed in line with this Law in all state, entity and bodies at other levels of state organisation of Bosnia and Herzegovina.
- (2) The Council of Ministers of BiH shall regulate the manner and substance of internal oversight over the implementation of this Law and relevant by-laws.

Article 75
(State Security Body)

- (1) The Council of Ministers of Bosnia and Herzegovina shall specify a State security body to monitor the implementation of the Law and the regulations adopted on the basis thereof.
- (2) The state security body shall carry out the following tasks in particular:
 - a) supervise security clearance,
 - b) issue authorizations to access secret data of other states, international or regional organizations in line with the Law or international and/or regional agreement,
 - c) monitor the situation in the area of classification and protection of secret data and take care of advancing and implementing physical, organizational and technical standards of secret data protection on state, entity and other levels of governmental organization of BiH, such standards relating to public office holders and those in economic organizations which obtain and utilize secret data,
 - d) take care of implementing international obligations and international treaties on protection of secret data and, in relation to this, cooperate with relevant bodies of other states, international or regional organizations.
 - e) take care of protection of secret data in state institutions and bodies abroad,
 - f) issue security authorizations for systems and means for transfer, keeping and processing of secret data of other states, international or regional organizations,
 - g) verify fulfilment of specified conditions for secret data processing performed by certain bodies,
 - h) issue instructions for handling secret data of another state or international or regional organization,
 - i) supervise enforcement of decisions related to physical, organizational and technical protection of secret data of another state, international or regional organization, and, according to the findings of such supervision, issue mandatory instructions for elimination of found shortcomings, which must be rectified by appropriate bodies without delay,
 - j) exchange information with state security authorities and international organizations,
 - k) prepare proposals of regulations required for implementation of the Law,
 - l) issue opinions about the harmonization of general regulations related to classification, protection and handling secret data with this Law,
 - m) coordinate the activities of the bodies responsible for security checks,
 - n) propose procedures for improvement of secret data protection,
 - o) supervise crypto-protection of secret data,
 - p) carry out other tasks specified by the Law and regulations made on the basis thereof.
- (3) The Council of Ministers of BiH shall designate bodies for information security when transferring secret

data.

**Article 76
(Oversight)**

- (1) The state security body shall carry out operational and technical oversight in the area of the protection of secret data over all institutions and bodies of Bosnia-Herzegovina, entities and other levels of governmental organisation of BiH whose competencies imply acting in accordance with the provisions of the Law, or whose activities are related to the Central registry referred to in Article 62.
- (2) The state security body shall be obliged to report to the Security and Intelligence Committee of the Parliamentary Assembly of BiH for supervision of work of the BiH OSA, at least once a year.

**Article 77
(Parliamentary oversight)**

- (1) The Security and Intelligence Committee of the Parliamentary Assembly of BiH for overseeing the work of the BiH OSA shall carry out oversight over the implementation of this Law.
- (2) Among others, the Committee shall be competent for the following:
 - a) oversight over the implementation of this Law by BiH, entity and bodies at other levels of state organisation of BiH,
 - b) debates and consideration of reports of the Ministry of Security of BiH and/or the Ministry of Defence of BiH and the State Security Body on the granting authorisations, security checks and other aspects of the implementation of this Law,
 - c) investigation on the work of the Ministry of Security of BiH and the Ministry of Defence of BiH with regard to the granting authorisations, of the BiH OSA with regard to security checks and of the State Security Body with regard to issues under its competence but excluding investigations related to secret data of other states, international or regional organizations,
 - d) requesting, through the Committee's Chairperson, the competent bodies referred to in this Law to ensure expert advice when necessary for performing the function of oversight, and
 - e) other activities aimed at ensuring full implementation of this Law.
- (3) While carrying out investigation, the Committee may interrogate all officials, civil servants, employees and other persons that are subject to this Law and have access to documentation relevant for the investigation.
- (4) For access to documentation referred to in Paragraph (3) of this Article, the members of the Committee shall have appropriate authorisation in accordance with this Law.

VI – PENALTY PROVISIONS

**Article 78
(Sanctions for responsible persons)**

- (1) The responsible official in a body, agency, institute, service, organisation and institution of Bosnia and Herzegovina, entities or at other levels of state organisation of Bosnia and Herzegovina shall be fined in the amount ranging from 1,000 to 5,000 KM if:
 - a) the authorized body fails to keep records on the distribution of secret data of other states, international or regional organizations (Article 28);
 - b) the head of a body from the list determined by the Council of Ministers fails to send a request to the BiH OSA within the foreseen deadline (Article 30);
 - c) the authorized body fails to keep official records on authorisations granted to all persons with the right of access to secret data classified as CONFIDENTIAL, SECRET and TOP SECRET (Article 62);
 - d) heads of bodies, organizations and institutions of Bosnia and Herzegovina, entities and at other levels of state organisation of Bosnia and Herzegovina fail to keep records on authorisations for their authorised employees and fail to archive them in a separate part of personnel files (Article 60);

- e) the authorized official fails to maintain permanent oversight over the distribution of secret data and fails to update the register that clearly shows the time of access and the identity of persons who accessed the secret data (Article 68);
- f) The system of procedures and decisions of importance for safekeeping secret data (Article 69) has not been established;
- g) If, in their safekeeping and transfer, secret data have not been protected from access by unauthorised persons (Article 70);
- h) Lack of reporting to the authorised person on disappearance, destruction or unauthorised disclosure of secret data (Article 71);
- i) internal oversight over secret data protection has not been ensured (Articles 73 and 74).

Article 79
(Sanctions for responsible authorised persons)

An authorised person shall be fined from KM 1,000 to KM 5,000 if he/she:

- a) transfers the authority to classify data to another person (Article 13 Paragraph 3)
- b) classifies data as CONFIDENTIAL, SECRET or TOP SECRET without the authority to do so (Articles 13 and 14)
- c) does not classify a document created by merging two or more pieces of information which by themselves are not deemed confidential (Article 18)
- d) fails to act in accordance with Article 21 of this Law
- e) changes the classification level of a document or data without authorization (Article 23)
- f) fails to appropriately mark a secret document (Article 24)
- g) fails to prevent a person who has been stripped of his/her authorization from accessing secret data (Article 58, Paragraph 4)
- h) issues a temporary secret data access authorization in contravention of the provisions of Article 63 of this Law
- i) acts in contravention of Article 67 of this Law.

VII – TRANSITIONAL AND FINAL PROVISIONS

Article 80
(Budget funds for the implementation of the Law)

For the implementation of this Law, it is necessary to secure funds from the budget of the institutions of Bosnia and Herzegovina, entity budgets and other levels of state organisation of Bosnia and Herzegovina, i.e. funds from the budget of each state, entity and institution at other levels of state organisation of Bosnia and Herzegovina respectively.

Article 81
(By-laws adopted by the Council of Ministers of BiH)

The Council of Ministers of Bosnia-Herzegovina shall be obliged to adopt by-laws within its competencies in accordance with the relevant provisions of this Law, not later than three months upon the entry into force of this Law.

Article 82
(Other by-laws)

All bodies, organizations and institutions of Bosnia and Herzegovina, entities and other levels of state organisation of Bosnia and Herzegovina shall be required to adopt the relevant regulations from within their competencies and adjust their organisation for their implementation and/or harmonise the existing regulations and organisation with the provisions of this Law, not later than six months upon the entry into force of this Law.

Article 83
(Ensuring granting of authorisations)

- (1) Bodies, organisations and institutions of BiH, entities and other levels of state organisation of Bosnia and Herzegovina shall be obliged to ensure that all officials and employees who must have access to secret data by virtue of their duties receive appropriate authorisations as stipulated by this Law not later than within eighteen months upon the day of entry into force of this Law.
- (2) All officials and employees who do not receive the authorisations referred to in Paragraph (1) of this Article, shall be denied access to secret data.

Article 84
(Harmonisation of classification levels)

It shall be the duty of authorised persons to change the degree of classification for the secret data whose degree of secrecy was determined in accordance with former regulations and which still have operational value, so as to harmonise it with the provisions of this Law not later than within one year from the day of entry into force of this Law.

Article 85
(Harmonisation of classification levels for electronic and other data)

- (1) It shall not be obligatory to change levels of classification within the deadline referred to in Article 84 for the secret data in the electronic or other form (not on a hard copy), or in the data in the current or permanent collection of documentation material.
- (2) It shall be obligatory to change the classification level for the secret data referred to in Paragraph (1) when they are reused or handed over to another user.

Article 86
(Comparison of previous and present classification types and degrees)

Secret data referred to in Article 85 of this Law shall be processed during interim period as follows:

- a) data classified as STATE SECRET as **TOP SECRET**.
- b) data classified as OFFICIAL or MILITARY SECRET as **SECRET**.
- c) data classified as OFFICIAL or MILITARY SECRET as **CONFIDENTIAL**.
- d) data classified as OFFICIAL or MILITARY SECRET as **RESTRICTED**.

Article 87
(Harmonization of laws in BiH)

- (1) Competent authorities in Bosnia and Herzegovina shall be required to harmonize all relevant provisions of laws and bylaws with the Law, in particular in the domain of secret data classification, within six months after the effective date of the Law.
- (2) The currently applicable regulations shall be applied parallel to the Law until harmonization of laws referred to in paragraph (1) of this Article. In the event of a conflict, provisions of the Law shall apply.

Article 88
(Entry into force)

This Law shall enter into force on the eighth day upon its publication in the "Official Gazette of Bosnia and Herzegovina".

PSBH No. 197/05
July 28, 2005
Sarajevo

Speaker
of the House of Representatives
of BH Parliamentary Assembly
Šefik Džaferović, s. r.

Speaker
of the House of Peoples
of BH Parliamentary Assembly
Velimir Jukić, s. r.