

# The Special Intelligence Means Act

Promulgated, State Gazette No. 95/21.10.1997, supplemented, SG No. 70/6.08.1999, effective 1.01.2000, amended, SG No. 49/16.06.2000, effective 16.06.2000, SG No. 17/21.02.2003, supplemented, SG No. 86/28.10.2005, effective 29.04.2006, amended, SG No. 45/2.06.2006, SG No. 82/10.10.2006, amended and supplemented, SG No. 109/20.12.2007, effective 1.01.2008, SG No. 43/29.04.2008, SG No. 109/23.12.2008, SG No. 88/6.11.2009, SG No. 93/24.11.2009, amended, SG No. 103/29.12.2009, amended and supplemented, SG No. 32/27.04.2010, effective 28.05.2010, SG No. 88/9.11.2010, effective 9.11.2010, amended, SG No. 1/4.01.2011, effective 4.01.2011, amended and supplemented, SG No. 13/11.02.2011, effective 12.08.2011, amended, SG No. 44/12.06.2012, effective 1.07.2012, supplemented, SG No. 17/21.02.2013, amended, SG No. 52/14.06.2013, effective 14.06.2013, amended and supplemented, SG No. 70/9.08.2013, effective 9.08.2013, amended, SG No. 111/27.12.2013, effective 31.12.2013, amended and supplemented, SG No. 53/27.06.2014, amended, SG No. 107/24.12.2014, effective 1.01.2015, amended and supplemented, SG No. 14/20.02.2015, SG No. 42/9.06.2015, amended, SG No. 56/24.07.2015, amended and supplemented, SG No. 74/26.09.2015, amended, SG No. 79/13.10.2015, effective 1.11.2015

Text in Bulgarian: Закон за специалните разузнавателни средства

## Chapter One GENERAL PROVISIONS

### Article 1

- (1) This Act shall regulate the terms, procedure and control over the use of special intelligence means and the results obtained thereby.
- (2) The use of special intelligence means shall temporarily suspend the inviolability of the person, the home, and the privacy of mail and other forms of communications.
- (3) (New, SG No. 70/2013, effective 1.01.2015 - amended, SG No. 111/2013, effective 31.12.2013, repealed, SG No. 107/2014, effective 1.01.2015).

### Article 2

- (1) For the purposes of this Act "Special Intelligence Means" shall be the technical means and the operative methods for their application, which are used for preparing pieces of material evidence, i.e. films, video records, audio records, photographs, and marked items.
- (2) "Technical Means" shall be electronic devices, mechanical devices, and substances, which are used to record the activities of monitored persons and facilities.
- (3) (Supplemented, SG No. 86/2005) "Operative Methods" shall be observation, tapping, surveillance, penetration, marking, and interception of mail and computerised information, controlled delivery, trusted transaction and investigation through an undercover officer, which are used in the course of applying the technical means referred to in Paragraph (2) above.

### Article 3

- (1) (Amended, SG No. 70/2013, effective 9.08.2013) Special intelligence means shall be used to prevent or detect grave intentional criminal offences within the meaning of Chapter I, Chapter II, Sections I, II, IV, V, VIII and IX, Chapter V, Sections I-VII, Chapter VI, Sections II - IV, Chapter VIII, Chapter VIIIa, Chapter IXa, Chapter XI, Sections I - IV, Chapter XII, Chapter XIII and Chapter XIV, as well as crimes within the meaning of Article 167, paragraphs (3) and (4), Article 169d, Article 219, paragraph (4), sentence two, Article 220, paragraph (2), Article 253, Article 308, paragraphs (2), (3) and (5), sentence two, Article 321, Article 321a, Article 356j and Article 393 of the Special Part of the Criminal Code, should the case necessitate it, where there are no other means to collect the necessary information or the collection thereof would be exceptionally difficult.

(2) In the cases, referred to in paragraph (1) above, the special intelligence means shall be used to preserve pieces of material evidence pursuant to legal provisions and procedure.

#### **Article 4**

Pursuant to the provisions of this Act, special intelligence means may also be used with regard to activities, concerning the protection of the national security.

#### **Article 5**

Observation - visual and by technical devices - shall be used to detect and record various aspects of the activities and the behaviour of persons or objects in their movement, sojourn at various places, or in the event of changes in particular situation.

#### **Article 6**

Tapping - acoustic, or by technical or other means - shall be used to intercept oral, telephonic or electronic communications of monitored persons.

#### **Article 7**

Surveillance - visual and by technical devices - shall be used to detect, reveal, and record the movements of monitored persons.

#### **Article 8**

Penetration shall be used to ascertain by technical devices the presence of actual data on the premises or in articles, used by monitored persons.

#### **Article 9**

Marking - by technical devices and substances - shall be used to mark objects and articles in order to detect their movement, procurement, or place of storage.

#### **Article 10**

Interception of mail - by technical devices and chemical substances - shall be used to ascertain the contents and the recipients of the mail of monitored persons and facilities.

#### **Article 10a**

(New, SG No. 86/2005)

A controlled delivery shall be performed by an intelligence body and shall be used by an investigating or body within the limits of their competence in the presence of uninterrupted strict control on the territory of the Republic of Bulgaria or another country within the context of international cooperation, during which a controlled individual shall be import, export, carry or effect transit transportation through the territory of the Republic of Bulgaria of an object, which makes the object of a criminal offence, with a view of detecting those involved in a trans-border crime.

#### **Article 10b**

(New, SG No. 86/2005)

A trusted transaction shall be used by the undercover officer and it shall be the conclusion of an apparent sale or another type of transaction involving an item with a view to gaining the trust of the other party involved in it.

#### **Article 10c**

(New, SG No. 86/2005, supplemented, SG No. 109/2007, amended, SG No. 93/2009, SG No. 70/2013, effective 9.08.2013, SG No. 14/2015, SG No. 79/2015, effective 1.11.2015) The undercover officer shall be an officer of the competent services under this Act, under the Ministry of Interior Act, the Defence and Armed Force of the Republic of Bulgaria Act, or of the State Intelligence Agency, authorised to make or keep contact with a controlled individual with a view to obtaining and uncovering information about serious intentional criminal offences and the organisation of criminal activity.

## **Article 11**

The application of the operative methods shall be accompanied by recording on audio, video, and film tapes, and by photographing.

## **Chapter Two**

### **PROCEDURE FOR USAGE OF SPECIAL INTELLIGENCE MEANS**

## **Article 12**

(1) Special intelligence means shall be used with regard to:

1. (Amended, SG No. 70/2013, effective 9.08.2013) Persons who are reported to, and for whom there are reasonable grounds to presume that they are preparing to commit, are committing, or have committed grave intentional crime from among those listed in Article 3, paragraph (1);

2. Persons whose activities are reported, and there are reasonable grounds to presume that they are being manipulated by the persons, referred to in Item 1 above, without being aware of the criminal nature of the activities perpetrated;

3. Persons and facilities related to national security;

4. (New, SG No. 109/2008) Facilities for identifying the persons referred to in item 1 or 2 above.

(2) Special intelligence means may be used for the protection of the life and the property of persons, who have consented to this in writing.

(3) (New, SG No. 42/2015) Special intelligence means may be used also regarding a witness in penal proceedings who has agreed thereof in order to establish criminal activities of other persons pursuant to Article 108a, Article 143 - 143a, Article 159a - 159d, Article 301 - 305 and Article 321 of the Criminal Code.

## **Article 13**

(1) The following shall have the right to request the use of special intelligence means and to use the data and the material pieces of evidence collected, in accordance with their competence:

1. (amended, SG No. 17/2003, SG No. 45/2006, SG No. 109/2007, SG No. 43/2008, SG No. 109/2008, SG No. 93/2009, SG No. 44/2012, effective 1.07.2012, SG No. 52/2013, effective 14.06.2013, SG No. 53/2014, SG No. 14/2015) the National Police Directorate General, the Directorate General for Combating Organized Crime, the Border Police Directorate General, the Internal Security Directorate, the regional directorates of the Ministry of Interior, the specialized directorates (except the Technical Operations Directorate), the territorial directorates and the autonomous territorial departments of the State Agency for National Security;

2. (amended, SG No. 49/2000, SG No. 109/2007) "Military Information" and "Military Police" services with the Minister of Defence;

3. (amended, SG No. 79/2015, effective 1.11.2015) the State Intelligence Agency;

4. (repealed, SG No. 109/2008);

5. (amended, SG No. 17/2003, repealed, SG No. 109/2008);

6. (new, SG No. 17/2013, amended, SG No. 42/2015) regional prosecutor's offices - for crimes under Article 167, paragraphs (3), (4) and (5) and Article 169 of the Criminal Code.

(2) (New, SG No. 109/2008) The supervising prosecutor shall submit to the court a substantiated written request for use of special intelligence means for pre-court proceedings.

(3) (New, SG No. 42/2015) The request to use special intelligence means regarding a judge, prosecutor or investigating magistrate shall be submitted by the administrative head of the Sofia Appellate Prosecution office, of the military appellate prosecution office, of the specialised appellate prosecution office, respectively, or by a deputy authorised by them. The request to use special intelligence means regarding a Chairperson of the Sofia Court of Appeal the Military Court of Appeal and the Specialised Criminal Court of Appeal and his/her deputy shall be submitted by a Deputy-Prosecutor General at the Supreme Cassation Prosecutor's Office. Requests pursuant to the above sentences may be made also by the Minister of Interior and the Chairperson if the State Agency for National Security.

(4) (New, SG No. 70/2013, effective 9.08.2013, renumbered from Paragraph 3, SG No. 42/2015) In the cases under paragraph (1), item 6 and paragraph (2) prior to submitting the request the prosecutor shall notify the administrative head of the respective prosecutor's office.

(5) (Renumbered from paragraph (2), supplemented, SG No. 109/2008, renumbered from Paragraph 3, SG No. 70/2013, effective 9.08.2013, renumbered from Paragraph 3, amended, SG No. 42/2015) No other bodies, except those referred to in paragraphs (1), (2) and (3) above, shall have the right to request and use special intelligence means.

#### **Article 14**

(1) (Supplemented, SG No. 109/2008, SG No. 17/2013, SG No. 42/2015) The heads of the administrative bodies referred to in Article 13, paragraph (1) above or the supervising prosecutor, the body pursuant to Article 13, paragraph (3) respectively, shall submit a substantiated written request for using special intelligence means, which shall include:

1. (amended, SG No. 70/2013, effective 9.08.2013, supplemented, SG No. 74/2015) a full and comprehensive list of facts and circumstances that provide the grounds to presume that a grave intentional crime from among those listed in Article 3, paragraph (1), including also in the cases under Article 4, is being prepared, or is being committed, or has been committed, thereby necessitating the use of special intelligence means;
2. a comprehensive description of activities, carried out so far, and the results of the preliminary enquiry or investigation;
3. identification of persons or facilities the special intelligence means will be used with regard to;
4. (amended, SG No. 70/2013, effective 9.08.2013) the period of time for which their use is requested and the motives, substantiating its length;
5. the operative methods that have to be applied;
6. (amended, SG No. 109/2008) the official authorised to be notified of the results;
7. (new, SG No. 70/2013, effective 9.08.2013) motives concerning the impossibility to collect the necessary information in other ways or description of the exceptional difficulties, which the collection thereof would entail.

(2) (Amended, SG No. 42/2015) In the cases referred to in Article 12, paragraph (2) or (3) above, the written consent of the person who is subject to the use of special intelligence means shall be appended to the request.

#### **Article 15**

(Supplemented, SG No. 70/1999, amended and supplemented, SG No. 109/2008, SG No. 13/2011, effective 12.08.2011, amended, SG No. 70/2013, effective 9.08.2013, SG No. 42/2015)

(1) The heads of the bodies listed in Article 13, paragraph (1) above or the supervising prosecutor shall submit the request to the Chairperson of the Sofia City Court, the respective regional or military Courts and to the specialised criminal court, or to a deputy authorised by that Chairperson, who within 72 hours shall grant written permission for the use of special intelligence means or refuse such permission and substantiate their statement.

(2) The applicant shall be obliged to submit to the body pursuant to paragraph (1) all materials, on which the request is based.

(3) Under the procedure set out in paragraphs (1) and (2), permission for the use of special intelligence means shall be granted:

1. regarding judges, prosecutors and investigating magistrates – by the Chairperson of the Sofia Court of Appeal or by his/her deputy expressly authorised thereof;

2. regarding the Chairperson of the Sofia Court of Appeal, the Military Court of Appeal and the Special Criminal Court of Appeal and his/her deputy – by the Deputy-Chairperson of the Supreme Court of Cassation chairing the Criminal Panel.

## **Article 16**

(1) (Amended, SG No. 17/2003, redesignated from Article 16, SG No. 109/2007, amended, SG No. 70/2013, effective 9.08.2013) Upon receipt of the written permission referred to in Article 15 above, the Chairperson of the State Agency for Technical Operations or a Deputy Chairperson, authorised by the Chairperson in writing, shall issue a written order for use of special intelligence means.

(2) (New, SG No. 109/2007, amended, SG No. 93/2009) Where such special intelligence means are deployed by the Specialised Directorate Technical Operations of the State Agency for National Security, following receipt of the written permission as per Article 15, the Chairperson of the State Agency for National Security or a deputy Chairperson authorised in writing by the latter shall issue a written order for the deployment of special intelligence means.

(3) (New, SG No. 93/2009, amended, SG No. 103/2009, repealed, SG No. 70/2013, effective 9.08.2013).

(4) (New, SG No. 14/2015) When special intelligence means are employed by the Ministry of Interior (MoI), after obtaining a written authorisation under Article 15, the Secretary General of the MoI shall issue a written direction to employ special intelligence means.

## **Article 17**

(Supplemented, SG No. 109/2007, amended, SG No. 70/2013, effective 9.08.2013, SG No. 14/2015)

In urgent cases the use of special intelligence means may start immediately upon receipt of the written permission referred to in Article 15 above, of which the Chairperson of the State Agency for Technical Operations or the Deputy Chairperson authorised by the Chairperson in writing or the MoI Secretary General or the Chairperson of the State Agency for National Security or a deputy Chairperson authorised in writing by the latter respectively shall be informed forthwith.

## **Article 18**

(1) (Supplemented, SG No. 109/2007, amended, SG No. 70/2013, effective 9.08.2013, SG No. 14/2015) In cases of imminent danger of grave premeditated crimes among the ones enumerated in Article 3, paragraph (1) being committed, or of a threat to national security, special intelligence means may be employed without the authorisation of the body referred to in Article 15 above, by order of the Chairperson of the State Agency for Technical Operations, the Chairperson of the State Agency for National Security or the MoI Secretary General.

(2) The use shall be terminated, should the body referred to in Article 15 above not grant permission for it within 24 hours. The said body shall rule whether the information collected so far shall be stored or destroyed.

(3) (Amended, SG No. 17/2003) In hypotheses of paragraphs (1) and (2) above, action taken so far shall be approved by authorisation of the body under Article 15.

## **Article 19**

(Supplemented, SG No. 109/2007, amended and supplemented, SG No. 109/2008, amended, SG No. 70/2013, effective 9.08.2013, amended and supplemented, SG No. 14/2015)

The Chairperson of the State Agency for Technical Operations or the Deputy Chairperson authorised by the Chairperson in writing or the MoI Secretary General, may terminate the use of special intelligence means in the cases referred to in Article 22, paragraph (3) before the expiration of the time limit, of which the bodies referred to in Articles 13 and 15 above shall be notified in writing.

## **Chapter Three**

### **PROCUREMENT AND APPLICATION OF SPECIAL INTELLIGENCE MEANS**

## **Section I**

### **(New, SG No. 70/2013, effective 9.08.2013)**

### **State Agency "Technical Operations"**

**Article 19a.** (New, SG No. 70/2013, effective 9.08.2013) (1) The State Agency for Technical Operations, hereinafter referred to as "Agency", shall be a specialised body with the Council of Ministers for the procurement and application of special intelligence means.

(2) The State Agency for Technical Operations shall be a legal entity, funded from the national budget and headquartered in the city of Sofia.

(3) The Chairperson of the State Agency for Technical Operations shall be a first-level spender of budgetary appropriations under the authority of the Council of Ministers.

(4) The State Agency for Technical Operations shall perform its activity autonomously and in conjunction with other state bodies.

(5) The activity of the State Agency for Technical Operations shall be controlled by the bodies, envisaged under this Act.

**Article 19b.** (New, SG No. 70/2013, effective 9.08.2013) In fulfilment of the task under Article 19a, paragraph (1) the bodies of the State Agency for Technical Operations shall perform activities of:

1. procurement, development and application of special intelligence means;
2. surveillance, penetration, photographing, video recording, sound recording, filming, marking of objects and preparing psychological analyses in connection with data collection for the protection of the citizens' rights and freedoms, national security and public order;
3. shadowing of individuals and facilities;
4. control over data transmission and receipt of information via cable means of communication,
5. conducting of operational-technical checks of mail and other correspondence for the protection of the citizens' rights and freedoms, national security and public order and for control of other persons, who are conducting such checks;
6. preparation of material evidence upon request according to procedure prescribed by law and making it available to the requesting body;
7. use of specific methods and special intelligence means for the protection of the life, health and property of citizens;
8. ensuring access to technical means and facilities of state bodies, organisations, legal entities and citizens;
9. issuance of mandatory orders for provision of assistance on the part of state bodies, organisations, legal entities and citizens;
10. receipt of information from other state bodies, organisations, legal entities and citizens;
11. compiling and use of an information base;
12. recruitment of citizens for voluntary cooperation;
13. participation in joint activities with the competent state bodies for prevention, interception and detection of crimes;
14. participation in training of officers of intelligence and counter-intelligence services;
15. (new, SG No. 53/2014) creation of specific technical means and systems, designing of certification signs, protected documents, stamps and seals.

**Article 19c.** (New, SG No. 70/2013, effective 9.08.2013) (1) (Amended, SG No. 14/2015) The State Agency for Technical Operations shall be headed by a Chairperson, who shall be appointed with a decree of the President of the Republic upon proposal by the Council of Ministers.

(2) The Chairperson shall be assisted by two Deputy Chairpersons, appointed by the Prime Minister.

(3) Eligible for appointment as Chairperson of the State Agency for Technical Operations shall be persons, who:

1. are only Bulgarian citizens;

2. have completed higher education with a Master's education and qualification degree;

3. (amended, SG No. 14/2015) have at least 10 years' experience in the legal profession or of professional experience in the security services or the law enforcement services - for the position of Chairperson or at least 7 years' experience in the legal profession or of professional experience in the security services or the law enforcement services - for the positions of Deputy Chairpersons;

4. have not been convicted of intentional crime of general nature, irrespective of any vindication, as well as have not been exonerated from criminal liability for intentional crime of general nature;

5. have not been stripped of the right to occupy certain state positions;

6. have obtained clearance for access to classified information with "Top Secret" level of classification;

7. are not members of political parties, coalitions, or organisations with political objectives;

8. are not sole proprietors, partners, managers, procurators, or members of supervisory boards, managing boards, boards of directors or of control bodies of commercial companies, cooperatives, or of not-for-profit legal entities, which engage in economic activity;

9. are not engaged under employment or service legal relationships.

(4) The Chairperson's powers shall be terminated ahead of term:

1. upon his/her request;

2. upon reaching 65 years of age;

3. in case of factual impossibility to perform his/her duties for more than 6 months;

4. in case of non-compliance with the requirements under paragraph (3);

5. upon entry into effect of an act, establishing conflict of interests pursuant to the Prevention and Ascertainning of Conflict of Interests Act;

6. (new, SG No. 14/2015) in the event of a serious violation or systematic failure to fulfil his/her official duties as well for acts undermining the reputation of the Agency.

(5) (Amended, SG No. 14/2015) In the cases under paragraph (4) the powers of the Chairperson of the Agency shall be terminated with a decree of the President of the Republic upon proposal by the Council of Ministers.

(6) (Amended, SG No. 14/2015) In case of demise or early termination of the powers of the Chairperson within one month after the occurrence of the grounds the Council of Ministers shall propose to the President of the Republic to issue a decree for appointing a new Chairperson to complete the running term of office.

(7) Pending the designation of a new Chairperson his/her duties shall be discharged by a Deputy Chairperson, designated by the Council of Ministers.

(8) The labour of the Chairperson and the Deputy Chairperson of the Agency shall be accounted for as category one labour.

**Article 19d.** (New, SG No. 70/2013, effective 9.08.2013) (1) The Chairperson of the State Agency for Technical Operations shall:

1. organise, direct and control the activity of the Agency;

2. represent the Agency;

3. approve the staff listing of the positions in the Agency's administration and the job descriptions of its employees;

4. set up and close down structural units within the approved budget and personnel strength;

5. propose the draft annual budget;
6. execute the budget;
7. direct the human resources management;
8. be responsible for the management of the items, provided to the State Agency for Technical Operations;
9. approve a Code of Ethics for the conduct of the employees of the State Agency for Technical Operations;
10. maintain cooperation with like services of other states and with international organisations;
11. exercise other powers as well, as specified by law.

(2) In the process of discharge of his/her powers the Chairperson shall issue other acts as well, as specified by law.

(3) The Chairperson of the State Agency for Technical Operations shall be a personal data administrator within the meaning of the Personal Data Protection Act.

**Article 19e.** (New, SG No. 70/2013, effective 9.08.2013) (1) The Deputy Chairpersons shall assist the Chairperson in the exercise of his/her powers.

(2) The powers of the Deputy Chairpersons shall be determined by written order of the Chairperson of the State Agency for Technical Operations.

(3) In the absence of the Chairperson his/her powers shall be exercised by a Deputy Chairperson, designated by order of the Chairperson in each specific case.

(4) In the course of exercise of their powers the Deputy Chairpersons shall issue orders.

**Article 19f.** (New, SG No. 70/2013, effective 9.08.2013, supplemented, SG No. 53/2014, amended, SG No. 14/2015, effective 1.04.2015) (1) The following shall be employees of the State Agency for Technical Operations:

1. civil servants who are directly engaged in activities for employing special intelligence means;
12. civil servants;
3. persons employed under labour contracts.

(2) To the civil servants under paragraph (1), item 1 the provisions relating to the civil service in the Ministry of Interior Act shall apply.

(3) The status of the civil servants under paragraph (1), item 1 shall be regulated by the Civil Service Act.

(4) The employees under paragraph (1), item 1 shall be appointed by the Chairperson of the State Agency for Technical Operations.

(5) The amount of the additional remunerations under Article 178, paragraph (1), items 2 and 5 of the Ministry of Interior Act for the civil servants under paragraph (1), item 1 and the terms and procedure for their payment shall be determined with an act of the Chairperson.

(6) The procedure for organising and distributing the office hours, their accounting, for the compensation for overtime work, the duty hours regime and the time for rest and the leaves of the civil servants under paragraph (1), item 1 shall be determined with an act of the Chairperson.

(7) In the course of discharging their powers the civil servants in the State Agency for Technical Operations shall prove their capacity with an official card or an official badge. The type of the official card or the official badge, the terms and procedures for issuing, using, replacing, accounting, storing and destroying of official cards or official badges, other cards and passes at the State Agency for Technical Operations shall be determined with an instruction of the Agency's Chairperson.

**Article 19g.** (New, SG No. 70/2013, effective 9.08.2013) (1) The information, which has become known to the Chairperson, the Deputy Chairpersons and the employees of the State Agency for Technical Operations during or in the course of the performance of their duties and does not constitute a state secret, shall be an official secret.



(2) Upon taking up their positions the persons under paragraph (1) shall sign declaration that they would refrain from disclosing the information while in their positions and after leaving them.

**Article 19h.** (New, SG No. 70/2013, effective 9.08.2013) The activity, structure and organisation of the functioning of the State Agency for Technical Operations shall be prescribed by Rules of Organisation, adopted by the Council of Ministers.

## **Section II**

### **Procedure for the procurement and application of special intelligence means (Title new, SG No. 70/2013, effective 9.08.2013)**

#### **Article 20**

(1) (Amended, SG No. 17/2003, amended and supplemented, SG No. 109/2007, amended, SG No. 109/2008, SG No. 93/2009, SG No. 70/2013, effective 9.08.2013, SG No. 14/2015) Special intelligence means, except for those referred to in paragraph (2) below, shall be procured and employed only by:

1. the State Agency for Technical Operations;
2. the specialised Technical Operations Directorate of the State Agency for National Security;
3. (amended, SG No. 56/2015) the Ministry of Interior – for the special intelligence means under Articles 10b and 10c, as well as for the special intelligence means under Article 10a in cases, where an undercover agent is deployed.

(2) (Amended, SG No. 109/2008, SG No. 79/2015, effective 1.11.2015) The State Intelligence Agency and the intelligence services of the Ministry of Defence may own and apply special intelligence means within the limits of their competence.

**Article 20a.** (New, SG No. 70/2013, effective 1.01.2015 - amended, SG No. 111/2013, effective 31.12.2013, repealed, SG No. 107/2014, effective 1.01.2015).

#### **Article 21**

(1) (Amended, SG No. 109/2008, SG No. 74/2015) The time limit for the application of special intelligence means shall be up to:

1. twenty days in the cases under Article 12, paragraph (1), item 4;
2. six months with regard to activities related to protection of national security in the cases of preventing grave intentional criminal offences within the meaning of Chapter One of the the Special Part of the Criminal Code;
3. two months in the remaining cases.

(2) (Amended, SG No. 74/2015) Should the case necessitate it, the time limit referred to in paragraph (1) above may be prolonged pursuant to the provisions of Article 15:

1. up to twenty days but for not more than a total of sixty days in the cases under Paragraph (1), item 1;
2. for not longer than a total of twelve months in the cases under Paragraph (1), item 2;
3. for not longer than a total of six months in the cases under Paragraph (1), item 3.

(3) (New, SG No. 70/2013, effective 9.08.2013) In the cases under paragraph (2) the request for prolongation of the time limit shall also contain a full and exhaustive indication of the results, obtained by the application of the special intelligence means.

(4) (Renumbered from Paragraph 3, SG No. 70/2013, effective 9.08.2013) The term shall commence as from the date specified in the permission referred to in Article 15 above.

#### **Article 22**

(Amended, SG No. 17/2003, SG No. 109/2008)

(1) The application of special intelligence means shall be terminated ex-officio by the structures referred to in Article 20, paragraph (1) above when the time-limit of the permission referred to in Article 15 has expired.

(2) (Amended, SG No. 42/2015) The application of special intelligence means shall be terminated by the structures referred to in Article 20, paragraph (1) above upon a written request by the bodies referred to in Article 13, paragraphs (1), (2) or (3), when:

1. the intended purpose has been achieved;
2. such application is unproductive.

(3) (Amended, SG No. 42/2015) The application of special intelligence means by the structures referred to in Article 20, paragraph (1) shall not start or may be terminated:

1. (new, SG No. 42/2015) when authorisation has been granted to apply special intelligence means for detecting crimes beyond the ones specified in Article 3, paragraph (1);
2. (new, SG No. 42/2015) in case of apparent factual mistakes in the request of the body under Article 13 or in the authorisation of the body under Article 15;
3. (renumbered from Item 1, SG No. 42/2015) in case of danger of exposure of operative methods;
4. (renumbered from Item 2, SG No. 42/2015) when their application is impossible;
5. (renumbered from Item 3, SG No. 42/2015) when the life or health of the undercover officer or his/her relatives in an ascending or descending line, siblings, spouse or other people with whom he/she is in especially close relations is threatened as a result of the assignments.

(4) The structure referred to in Article 20, paragraph (1) shall notify in writing the bodies referred to in Articles 13 and 15 immediately after terminating the application of special intelligence means on the grounds of paragraphs (1) - (3). In the cases referred to in paragraph (3), the notification shall be substantiated.

(5) (New, SG No. 74/2015) In the cases under Paragraph (3), items 1 and 2 the the body referred to in Article 20 shall notify forthwith the the body under Article 15 as well as the body under Article 13. The body referred to in Article 15 shall repeal, amend or confirm the authorisation, send its act to the body under Article 20 and shall notify the body under Article 13. Following the receipt of the judicial act amending or confirming the authorisation the body under Article 20 shall undertake immediate action to implement the special intelligence means.

### **Article 23**

(Amended, SG No. 17/2003, amended and supplemented, SG No. 109/2008, amended, SG No. 42/2015)

The bodies referred to in Article 13, paragraph (1), (2) or (3) above shall be obliged to cooperate with and assist the respective structures that apply special intelligence means, with updated information concerning the identity of the persons and facilities being the subject of application of special intelligence means.

### **Article 24**

Information, obtained as a result of application of special intelligence means, shall be recorded on material media.

## **Chapter Four**

# **USING THE RESULTS OF THE APPLICATION OF SPECIAL INTELLIGENCE MEANS**

### **Article 25**

(Amended, SG No. 17/2003, SG No. 109/2008)

(1) (Amended, SG No. 42/2015) The results of the application of special intelligence means shall be provided on hard copy or

other media by the relevant body of the structure referred to in Article 20, paragraph (1) immediately after such results are obtained.

(2) (New, SG No. 42/2015) On request by the body under Article 13 and if there is a technical possibility the structure under Article 20, paragraph (1) shall provide access to the information through an automated information network.

(3) (Renumbered from Paragraph 2, SG No. 42/2015) The information contained on the media referred to in paragraph (1) above shall correspond to the information on the material media referred to in Article 24.

(4) (Renumbered from Paragraph 3, SG No. 42/2015) Immediately after they are prepared, the media referred to in paragraph (1) above shall be sent to the body that requested the use of special intelligence means.

(5) (Renumbered from Paragraph 4, amended, SG No. 42/2015) The articles obtained in a controlled delivery or trusted transaction, and, if so requested by the bodies referred to in Article 13, paragraph (1), (2) or (3), the photographs, records, sketches or layouts prepared, shall be sent immediately together with the media referred to in paragraph (1).

(6) (Renumbered from Paragraph 5, SG No. 42/2015) In the period of application of special intelligence means, the material media referred to in Article 24 shall be kept with the structures referred to in Article 20, paragraph (1).

## **Article 26**

(Amended, SG No. 17/2003, SG No. 109/2008, SG No. 42/2015)

In the cases referred to in Article 22, paragraph (2), item 1, the relevant body referred to in Article 13, paragraph (1), (2) or (3) shall immediately notify the structure referred to in Article 20, paragraph (1) of the need to prepare material evidence and a protocol certifying its preparation, or of the need to interrogate the undercover officer.

## **Article 27**

(Amended, SG No. 17/2003, SG No. 109/2008)

(1) (Supplemented, SG No. 88/2010, effective 9.11.2010, amended, SG No. 42/2015) The relevant structure under Article 20, paragraph (1) shall prepare material evidence and a protocol certifying its preparation when the period of application of the special intelligence means has expired prior to the expiration of the period under Article 31, paragraph (3) and the structure has been notified in writing by the body under Article 13, paragraph (1), (2) or (3) of the need for such preparation.

(2) (Amended, SG No. 88/2010, effective 9.11.2010) The notification of preparation of material evidence or of the need for interrogation of the undercover officer shall be presented to the structure under Article 20 paragraph (1) within 10 days after the application of the special intelligence means is terminated.

## **Article 28**

(Amended, SG No. 17/2003, supplemented, SG No. 43/2008, amended, SG No. 109/2008)

In the cases referred to in Article 22, paragraph (2), item 2 above, no material evidence and protocol certifying its preparation shall be prepared, and the information collected, regardless of whether such information is classified or not, shall be destroyed as provided for by Article 31 below.

## **Article 29**

(1) (Amended, SG No. 109/2008, SG No. 32/2010, effective 28.05.2010, SG No. 42/2015) Any material evidence obtained while using special intelligence means shall be prepared in two copies by the relevant unit under Article 20(1) which is applying the means concerned and shall be reflected in a statement as per the procedure laid down in the Criminal Procedure Code. Within 24 hours following the preparation of the evidence, the relevant authority referred to in Article 13(1), (2) or (3) and the authority referred to in Article 15 shall each obtain a copy of the evidence and a copy of the statement thereof forwarded to them in a sealed envelope. Where necessary for the purposes of the criminal proceedings, in the case of using special intelligence means, the competent authority under Article 13(2) or (3) may order that the material evidence shall be prepared in more than two copies. Should this be the case, within 24 hours following the preparation of the evidence, one copy shall be forwarded, in a sealed envelope, to the authority referred to in Article 15, and the other copies shall be sent to the authority referred to in Article 13(2) or (3).

(2) (Amended, SG No. 17/2003, SG No. 109/2008) The abovementioned protocol of material evidence shall be signed by the head

of the relevant structure referred to in Article 20, paragraph (1).

(3) The protocol shall list:

1. (Supplemented, SG No. 32/2010, effective 28.05.2010, amended, SG No. 42/2015) The request made by the body referred to in Article 13, paragraph (1), (2) or (3);
2. (Supplemented, SG No. 43/2008, amended, SG No. 109/2008, supplemented, SG No. 42/2015) The written consent of the persons referred to in Article 12, paragraph (2) or (3);
3. (Amended, SG No. 109/2008) The permission for use referred to in Article 15;
4. (Amended, SG No. 109/2008) The written order of the body referred to in Article 16.

(4) The protocol shall include:

1. Time and place of use of the special intelligence means;
2. Type(s) of the operative methods and technical devices applied;
3. The data obtained for monitored persons and facilities;
4. The textual reproduction of the contents of the piece of material evidence preserved;
5. The conditions, under which the result of the use of the special intelligence means were perceived.

(5) The preserved pieces of material evidence shall comprise an integral part of the said protocol. They shall be stored pursuant to the provisions of Article 31 below.

(6) Sketches, layouts, schemes, and other graphic designs may be appended to the said protocol.

(7) (New, SG No. 109/2008, amended, SG No. 42/2015) Within one month after application of the special intelligence means is terminated, the body referred to in Article 13, paragraph (1), (2) or (3) shall submit a report to the judge who permitted the use of the special intelligence means. The report shall specify the type, the beginning and the end of application of the special intelligence means, whether material evidence has been prepared and whether the information gathered by such means has been destroyed.

(8) (New, SG No. 109/2008, amended, SG No. 42/2015) The Chairpersons of the regional courts or courts of appeal and the Chairperson of the Supreme Court of Appeal shall include in their annual reports information on the number of permissions granted and the material evidence prepared.

### **Article 30**

(1) (Supplemented, SG No. 43/2008, previous Article 30, amended and supplemented, SG No. 109/2008, amended, SG No. 70/2013, effective 9.08.2013, supplemented, SG No. 74/2015) Should the results obtained go beyond the scope of the request submitted the Chairperson of the State Agency for Technical Operations or the Chairperson of the State Agency for National Security shall inform within 24 hours the requester of the results obtained.

(2) (New, SG No. 70/2013, effective 9.08.2013) The requester shall inform thereof the competent body within 24 hours of receipt of the notice under paragraph (1).

(3) (New, SG No. 109/2008, renumbered from Paragraph 2, amended, SG No. 70/2013, effective 9.08.2013, SG No. 14/2015) When the results referred to in paragraph (1) concern the requester or his/her superior, the Chairperson of the State Agency for Technical Operations or the Deputy Chairperson authorised by the Chairperson in writing, or the MoI Secretary General shall immediately send the materials to the Prosecutor General or a Deputy Prosecutor General authorised in writing by him/her.

### **Article 31**

(1) (Amended, SG No. 82/2006, supplemented, SG No. 43/2008, amended, SG No. 70/2013, effective 9.08.2013) The preserved pieces of material evidence shall be kept by the bodies under Article 13, paragraph (1) until initiation of pre-court proceedings.

(2) (Amended, SG No. 82/2006) After initiation of pre-court proceedings the preserved pieces of material evidence shall be kept by the respective bodies of the judiciary.

(3) (Amended, SG No. 17/2003, SG No. 43/2008, SG No. 109/2008, SG No. 42/2015) The information referred to in Articles 24

which is not used for the preparation of material evidence and the information under article 25, regardless of whether such information is classified or not, shall be destroyed by the structures referred to in Article 13 and Article 20, paragraph (1), within 10 days after application of the special intelligence means has been terminated. The information shall be destroyed by a three-member committee the composition whereof shall be determined by the head of the relevant structure, and such destruction shall be documented in a protocol.

(4) (New, SG No. 109/2008, amended, SG No. 42/2015) Within 7 days the structure referred to in Article 20, paragraph (1) shall send the destruction protocol to the body referred to in Article 13, paragraph (1), (2) or (3), together with the substantiated request and the permission for the use of special intelligence means. In the cases referred to in Article 12, paragraph (2) or (3), the written consent of the person shall also be sent.

(5) (New, SG No. 109/2008, amended, SG No. 42/2015, supplemented, SG No. 74/2015) The bodies referred to in Article 13, paragraphs (1), (2) or (3) shall store the destruction protocol under paragraph 3 and 7, the request and the permission for the use of special intelligence means, and, in the cases referred to in Article 12, paragraphs (2) or (3), also the written consent of the person.

(6) (New, SG No. 109/2008, amended, SG No. 42/2015, SG No. 74/2015) The information referred to in Article 21, paragraph (1), item 2 and paragraph (2), item 2 shall be stored by the relevant specialised directorate, the territorial directorate or an independent territorial department of the State Agency for National Security, by the Military Information Service under the Minister of Defence or by the National Intelligence Service for a period of 15 years. The term shall start running after the termination of the use of the special intelligence means.

(7) (New, SG No. 74/2015) After the expiry of the period under paragraph (6) the information shall be destroyed by a four-member commission, the composition of which shall be determined by the head of the respective structure under paragraph (6), of which a protocol shall be drawn up.

## **Article 32**

The results obtained through special intelligence means shall be used for no purposes other than preventing, detecting, and proving crimes, pursuant to legal provisions and procedure.

## **Article 33**

Persons who have obtained information concerning special intelligence means, used pursuant to the provisions of this Act, and the data collected thereby, shall be obliged not to disclose it.

## **Article 34**

(Amended, SG No. 17/2003, SG No. 109/2007, repealed, SG No. 109/2008).

## **Chapter Four "a"**

**(New, SG No. 109/2008)**

### **CONTROL AND MONITORING OF SPECIAL INTELLIGENCE MEANS**

#### **Article 34a**

(New, SG No. 109/2008)

(1) The application and use of special intelligence means shall be controlled by:

1. (amended, SG No. 70/2013, effective 9.08.2013) the Chairperson of the State Agency for Technical Operations, where special intelligence means are applied and used by structures of the Agency;

2. the Chairperson of the State Agency for National Security, where special intelligence means are applied and used by structures of the State Agency for National Security;

3. (new, SG No. 14/2015) the Minister of Interior when special intelligence means are employed and used pursuant to Article 10c

of the MoI Act.

(2) The heads of the structures referred to in Article 20, paragraph (1) shall exert control with regard to the legality of the application of special intelligence means.

### **Article 34b**

(New, SG No. 109/2008, amended, SG No. 88/2009, SG No. 70/2013, effective 9.08.2013)

(1) (Amended, SG No. 107/2014, effective 1.01.2015) The National Special Intelligence Means Control Bureau, hereinafter referred to as "National Bureau", shall be an independent state body, performing monitoring of the procedures of permission, application and use of special intelligence means, of storage and destruction of information obtained through special intelligence means, as well as of protection of citizens' rights and freedoms against illegal use of special intelligence means.

(2) The National Bureau shall be a legal entity, funded from the national budget and headquartered in the city of Sofia.

(3) The National Special Intelligence Means Control Bureau shall be a first-level spender of budgetary appropriations.

(4) The National Bureau shall be a permanently functioning body, supported by an administration.

(5) The information which has become known to the members and employees of the National Bureau during or in the course of the performance of their duties and does not constitute a state secret, shall be an official secret.

(6) Upon taking up their positions the persons under paragraph (5) shall sign declaration that they would refrain from disclosing the information while in their positions and after leaving them.

(7) By the 31st day of May of each year the National Bureau shall submit to the National Assembly a report on the activities performed, which shall contain summarised information on the permitting, application and use of special intelligence means, the storage and destruction of the information obtained through such means, as well as the protection of citizens' rights and freedoms against illegal use of special intelligence means.

(8) The National Bureau shall prepare rules on its activity and the activity of its administration. The rules shall be published in State Gazette.

### **Article 34c**

(New, SG No. 109/2008, repealed, SG No. 88/2009, new, SG No. 70/2013, effective 9.08.2013)

(1) The National Bureau shall be a collegial body of 5 members, including a Chairperson and a Deputy Chairperson, elected by the National Assembly for a term of 5 years.

(2) Eligible as members of the National Bureau shall be only legally capable Bulgarian citizens, having at least 8 years' experience in the legal profession or of professional experience in the security services or in the law enforcement services and have obtained clearance for access to classified information with "Top Secret" level of classification.

(3) The members of the National Bureau shall perform their activities under labour legal relationship.

(4) Upon termination of the legal relationship the member of the National Bureau shall be reinstated in the position held prior to his/her election.

(5) The period of time, during which the person had been elected to the National Bureau, shall be recognized as professional experience in the position held prior to his/her election.

(6) The powers of a member of the National Bureau shall be terminated by the National Assembly prior to expiry of his/her term of office:

1. upon his/her request;

2. in case of factual impossibility to perform his/her duties for more than three consecutive months;

3. in case of occurring non-compliance with the requirements for holding the position;

4. upon entry into effect of an act, establishing conflict of interests pursuant to the Prevention and Ascertaining of Conflict of Interests Act.

(7) In case of demise or early termination of the powers of a member of the National Bureau the National Assembly shall elect within one month under the procedure of Article 34d a new member to complete the term of office.

#### **Article 34d**

(New, SG No. 109/2008, repealed, SG No. 88/2009, new, SG No. 70/2013, effective 9.08.2013)

(1) Each nomination for member of the National Bureau shall be introduced to the National Assembly accompanied by CV, document of professional experience, certificate of clear conviction record, medical certificate to the effect that the individual is free of mental illness, the documents required for performing a background check within the meaning of the Classified Information Protection Act.

(2) The Chairperson of the specialised standing committee of the National Assembly shall forward to the State Agency for National Security the documents of the nominees for members of the National Bureau for performing a background check. The State Agency for National Security shall perform within one month the special check within the meaning of the Classified Information Protection Act.

(3) The nominations for members of the National Bureau shall be reviewed by the specialised standing committee of the National Assembly within 7 days of receipt of the feedback under paragraph (2).

(4) The committee under paragraph (2) shall notify the sponsor of the nomination in case of finding that the nominee fails to meet the requirements of the law. New nominations may be submitted within 7 days of such notice.

(5) The committee under paragraph (2) shall hear the nominees, who meet the requirements of the law and shall submit a report, summarising the results of the hearing, within 7 days of holding it.

(6) The National Assembly shall elect individually the members of the National Bureau. The National Assembly shall elect a Chairperson and a Deputy Chairperson among the members.

(7) Upon being elected the members of the National Bureau shall take an oath before the National Assembly with the following content: "I take a vow in the discharge of my duties to abide by the Constitution and the laws of the Republic of Bulgaria, to fulfil in good faith the duties of my office, and to be guided by the interests of the state and the principles of independence and objectivity."

(8) The taking of the oath shall be evidenced by signing a statement of oath.

#### **Article 34e**

(New, SG No. 109/2008, repealed, SG No. 88/2009, new, SG No. 70/2013, effective 9.08.2013)

(1) The Chairperson shall represent, direct and organise the activity of the National Bureau and in his/her absence the Deputy Chairperson shall take over his/her functions.

(2) The Chairperson of the National Bureau shall receive a base monthly remuneration in the amount of 85 percent of the base monthly remuneration of the Speaker of the National Assembly.

(3) (Amended, SG No. 42/2015) The Deputy Chairperson shall receive a base monthly remuneration in the amount of 80 percent of the base monthly remuneration of the Chairperson of the National Assembly.

(4) (Amended, SG No. 42/2015) The other members of the National Bureau shall receive a base monthly remuneration in the amount of 75 percent of the base monthly remuneration of the Chairperson of the National Assembly.

(5) The members of the National Bureau shall not be entitled to additional financial incentives.

#### **Article 34f**

(New, SG No. 109/2008, repealed, SG No. 88/2009, new, SG No. 70/2013, effective 9.08.2013)

(1) In fulfilment of the task under Article 34b, paragraph (1) the National Bureau shall perform activities of:

1. requesting within the limits of its competencies information from the bodies and structures under Articles 13, 15 and 20;
2. checking the appropriateness of keeping the registers of the bodies and structures under Articles 13, 15 and 20 concerning their

activities under the Act together with any requests, permissions and orders stored in regard to use and application of special intelligence means, as well as concerning the storage and destruction of the information obtained through such means;

3. issuing of mandatory instructions related to improvement of the regime of use and application of special intelligence means, as well as of the storage and destruction of the information obtained through such means.

(2) In performance of the activity under paragraph (1), item 2 the National Bureau shall develop:

1. templates for the registers of the bodies and structures under Articles 13, 15 and 20 concerning their activities under the Act;
2. rules for keeping the registers under item 1;
3. rules for storage of the requests, permissions and orders in regard to the use and application of special intelligence means.

(3) The templates of the registers and rules shall be approved by the Chairperson of the National Bureau following coordination with the heads of the bodies under Article 13, paragraph (1), items 1-3, the Chairperson of the State Agency for Technical Operations and the Supreme Judicial Council.

(4) For performance of the activities under paragraph (1) the members of the National Bureau, as well as its employees, with regard to their competence, shall be entitled to access to:

1. all documents in connection with the use and application of special intelligence means;
2. all documents in connection with the storage and destruction of the information obtained through special intelligence means;
3. all premises, where documents under items 1 and 2 are being stored.

(5) (Amended, SG No. 74/2015) In case of finding data concerning illegal use and application of special intelligence means, respectively of storage and destruction of information obtained through such means, the National Bureau shall notify the bodies of the prosecutor's office and the heads of the bodies and structures under Articles 13 and 20.

(6) (New, SG No. 42/2015, amended, SG No. 74/2015) In case of evidence of illegal authorisation for the use of special intelligence means by a body under article 15 the National Bureau shall notify the prosecutor's office, the Supreme Judicial Council and the Minister of Justice.

#### **Article 34g**

(New, SG No. 109/2008, amended and supplemented, SG No. 88/2009, amended, SG No. 70/2013, effective 2.08.2013)

(1) The National Bureau shall ex officio inform citizens in case special intelligence means had been applied against them illegally.

(2) Citizens shall not be informed in case such information would pose a risk:

1. for the accomplishment of the goals referred to in Article 3 or Article 4;
2. of disclosure of the operative methods or technical means;
3. for the life or health of the undercover officer or of his/her relatives in an ascending or descending line, siblings, spouse or other people with whom he/she is in especially close relations, where the risk stems from the tasks assigned.

#### **Article 34h**

(New, SG No. 109/2008, amended, SG No. 88/2009, SG No. 70/2013, effective 2.08.2013)

(1) (Amended, SG No. 74/2015) The National Assembly shall exercise via a standing committee parliamentary control over the procedures for authorisation, implementation and use of special intelligence means as well as over the storage and destruction of the information obtained through them.

(2) Any official who would be invited shall be obliged to appear before the committee under paragraph (1) and provide the information requested.

### **Chapter Four "b"**

**(New, SG No. 88/2009)**



# USE AND APPLICATION OF SPECIAL INTELLIGENCE MEANS IN RELATION TO INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

## Article 34i

(New, SG No. 88/2009)

(1) Special intelligence means, except in the cases referred to in Article 3, paragraph (1), may also be used where that is provided for in an international treaty which has taken effect in respect of the Republic of Bulgaria.

(2) In the cases referred to in paragraph (1) special intelligence means may be used to prevent and investigate crimes specifically indicated in the international treaty on the authority whereof their use is allowed.

## Article 34j

(New, SG No. 88/2009)

(1) In the cases referred to in Article 34i, the special intelligence means may also be provided and applied by the competent authorities of a foreign state.

(2) A foreign undercover officer shall have the powers and may be used for the purpose of achieving the goals referred to in Article 10c where that is provided for in an international treaty which has taken effect in respect of the Republic of Bulgaria or where an agreement has been entered into for each specific case in accordance with the reciprocity principle.

## Article 34k

(New, SG No. 88/2009)

Special intelligence means shall be applied as stipulated by this Chapter for the period provided for in the Criminal Procedure Code.

## Article 34l

(New, SG No. 88/2009)

The results obtained through special intelligence means as stipulated by this Chapter may be used for the purposes of international legal assistance as well as for the purposes of internal investigation in accordance with the provisions of the national laws.

## Article 34m

(New, SG No. 88/2009)

(1) In case a foreign state sends a legal assistance application requesting continuation of cross-border monitoring from the territory of other states into the territory of the Republic of Bulgaria by officers of the requesting state, the Supreme Cassation Prosecutor's Office shall rule on the application and, provided that it sanctions it, submit a substantiated written request for permission to the Chairperson of the Sofia City Court or to a deputy chairperson authorised by the Chairperson.

(2) The request shall contain:

1. information on the crime the investigation whereof requires cross-border monitoring;
2. information on the persons to be subjected to cross-border monitoring;
3. information on the officers to perform the cross-border monitoring;
4. terms under which the cross-border monitoring is to take place;
5. the period for which the cross-border monitoring is to take place.

(3) The Chairperson of the Sofia City Court or a deputy chairperson authorised by the Chairperson shall without delay give a

written permission for the cross-border monitoring or reject it, provided that he/she substantiates such rejection.

(4) The permission shall be sent via the Supreme Cassation Prosecutor's Office to the competent authorities of the requesting state, whereof the competent Bulgarian authorities shall be notified.

#### **Article 34n**

(New, SG No. 88/2009)

(1) In urgent cases where the Bulgarian border is crossed in the course of cross-border monitoring without prior permission having been requested, the foreign state's monitoring officers may continue it in the territory of the Republic of Bulgaria if that is provided for in an international treaty which has taken effect in respect of the Republic of Bulgaria.

(2) (Amended, SG No. 93/2009) The competent authorities of the foreign state whose officers are performing the monitoring shall immediately notify the Supreme Cassation Prosecutor's Office and the Secretary General of the Ministry of Interior or an officer authorised by the Minister of the fact that the border has been crossed in the course of the monitoring.

(3) (Amended, SG No. 93/2009) After the notification referred to in paragraph (2), the Supreme Cassation Prosecutor's Office shall immediately rule on whether the monitoring shall be terminated and shall notify thereof the requesting state and the Secretary General of the Ministry of Interior or an officer authorised by the Commissioner General.

(4) The competent authorities of the foreign state whose officers perform the monitoring shall immediately send to the Supreme Cassation Prosecutor's Office a request for legal assistance in the performance of cross-border monitoring, which shall be accompanied by substantiation justifying the crossing of the border without prior permission.

(5) After receiving the legal assistance request, the Supreme Cassation Prosecutor's Office shall immediately rule on whether it is to be sanctioned. In case of rejection, the monitoring shall immediately be terminated.

(6) In case the request is sanctioned, the Supreme Cassation Prosecutor's Office shall file a substantiated written request for permission to the Chairperson of the Sofia City Court or to a deputy chairperson authorised by the Chairperson.

(7) The request shall contain:

1. information on the crime the investigation whereof requires cross-border monitoring;
2. information on the persons to be subjected to cross-border monitoring;
3. information on the circumstances which have predetermined the urgency;
4. information on the officers to perform the cross-border monitoring;
5. terms under which the cross-border monitoring is to take place;
6. the period for which the cross-border monitoring is to take place.

(8) The Chairperson of the Sofia City Court or the deputy chairperson authorised by the Chairperson shall, within five hours after the Bulgarian border is crossed, give a written permission for the cross-border monitoring to be performed, or refuse to give such permission and provide substantiation for such refusal.

(9) The Chairperson of the Sofia City Court or the deputy chairperson authorised by the Chairperson shall immediately send the issued permit to the Supreme Cassation Prosecutor's Office.

(10) Where the Chairperson of the Sofia City Court or the deputy chairperson authorised by the Chairperson refuses to give permission, the cross-border monitoring shall be terminated.

(11) The Supreme Cassation Prosecutor's Office shall notify the competent authorities of the requesting state of the issued permission and shall immediately dispatch it and notify the monitoring officers.

#### **Article 34o**

(New, SG No. 88/2009)

(1) Where special intelligence means are applied as stipulated by this Chapter, the officers of the foreign state's competent authorities shall:

1. observe the laws of the Republic of Bulgaria;
2. observe the instructions of the competent Bulgarian authorities;
3. carry a document certifying that the required permit has been granted, except in the cases referred to in Article 34n;
4. be able to prove at any time that they are operating in their official capacity.

(2) Where special intelligence means are applied as stipulated by this Chapter, no homes or places that are not publicly accessible may be trespassed on. Monitoring officers shall not have the right to detain the person being monitored.

(3) The officers of the foreign state's competent authorities shall draft a report on the actions which they have performed in the territory of the Republic of Bulgaria immediately after performing them.

(4) The report referred to in paragraph (3) shall be sent to the Supreme Cassation Prosecutor's Office, which shall provide it to the Chairperson of the Sofia City Court or the deputy chairperson authorised by the Chairperson who gave the permission for the actions to be performed, who may require the relevant officers to appear before him/her in person.

(5) The pre-court bodies and the court may require that the competent authorities of the foreign state whose officers have performed actions related to the application of special intelligence means in the territory of the Republic of Bulgaria assist during the criminal procedure, where such a procedure has been launched as a result of the relevant actions wherein they participated.

#### **Article 34p**

(New, SG No. 88/2009)

Any cases not provided for in this Chapter shall be treated in accordance with the general provisions of the law.

## **Chapter Five ADMINISTRATIVE AND PENAL PROVISIONS**

#### **Article 35**

(1) (Amended, SG No. 109/2008) Violations of this Act that do not constitute a crime shall be punished with a fine of minimum 1,000 Leva and maximum 2,500 Leva.

(2) Repetitive violations shall be punished with a fine of minimum 2,500 Leva and maximum 5,000 Leva.

#### **Article 36**

(Repealed, SG No. 109/2008)

#### **Article 37**

(Amended, SG No. 17/2003, amended and supplemented, SG No. 109/2007, amended, SG No. 109/2008, SG No. 70/2013, effective 9.08.2013) (1) (Amended, SG No. 14/2015) Statements ascertaining violations hereof shall be drawn up by persons authorised in writing by the Chairperson of the State Agency for Technical Operations, by the Chairperson of the State Agency for National Security or by the Minister of Interior respectively.

(2) (Amended, SG No. 14/2015) Penal ordinances shall be issued by the Chairperson of the State Agency for Technical Operations or by a Deputy Chairperson, authorised by the Chairperson in writing, by the Chairperson of the State Agency for National Security or by a Deputy Chairperson authorised by the Chairperson in writing or by the Minister of Interior or an official authorised by him/her respectively.

(3) Ascertainment of violations, issuing of, appealing against and enforcement of penal ordinances shall be done pursuant to the provisions of the Administrative Violations and Penalties Act.

**FINAL PROVISIONS**

§ 1. This Act repeals the Special Intelligence Means Act (promulgated, SG No. 30/1994, amended, SG No. 64/1997).

§ 2. (Amended and supplemented, SG No. 43/2008, amended, SG No. 70/2013, effective 2.08.2013, amended and supplemented, SG No. 14/2015) The enforcement of this Act shall be assigned to the Chairperson of the State Agency for Technical Operations, to the Chairperson of the State Agency for National Security and the Minister of Interior, who shall issue instructions for its implementation in accordance with their competences.

---

TRANSITIONAL AND FINAL PROVISIONS

to the Lev Re-denomination Act

(SG No. 20/1999, supplemented,

SG No. 65/1999, effective 5.07.1999)

.....  
§ 4. (1) (Supplemented, SG No. 65/1999) Upon the entry of this Act into force, all figures expressed in old lev terms as indicated in the laws which will have entered into force prior to the 5th day of July 1999 shall be replaced by figures expressed in new lev terms, reduced by a factor of 1,000. The replacement of all figures expressed in old lev terms, reduced by a factor of 1,000, shall furthermore apply to all laws passed prior to the 5th day of July 1999 which have entered or will enter into force after the 5th day of July 1999.

(2) The authorities, which have adopted or issued any acts of subordinate legislation which will have entered into force prior to the 5th day of July 1999 and which contain figures expressed in lev terms, shall amend the said acts to bring them in conformity with this Act so that the amendments apply as from the date of entry of this Act into force.

.....  
§ 7. This Act shall enter into force on the 5th day of July 1999.

TRANSITIONAL AND FINAL PROVISIONS

to the Act amending and supplementing the Ministry of the Interior Act

(SG No. 17/2003)

§ 99. In the Special Intelligence Means Act (promulgated, SG No. 95/1997, amended, SG No. 70/1999 and SG No. 49/2000) shall be amended as follows:

.....  
15. The words "Secretary of the Ministry" is replaced by "Deputy Minister".

.....  
ACT amending and supplementing  
the Special Intelligence Means Act

(SG No. 109/2008)

.....  
Additional Provision

§ 22. Everywhere in the Act the words "the authorised" and "authorised" shall be replaced by "the empowered" and "empowered".

Transitional and Final Provisions  
.....

§ 24. Within three months after this Act's entry into force, the Council of Ministers shall provide the National Bureau and its administration with the premises and technical resources required for their activities.

TRANSITIONAL PROVISION

to the Act amending and supplementing the Special Intelligence Means Act

(SG No. 88/2009, amended, SG No. 1/2011, effective 4.01.2011)

§ 6. (1) The National Special Intelligence Means Control Bureau shall be closed down.

(2) The assets and liabilities of the National Special Intelligence Means Control Bureau shall be transferred to the Ministry of Justice, and the documentation and archive shall be handed over to the National Assembly.

(3) The employment relations with the members of the National Special Intelligence Means Control Bureau and the official and employment relations with the employees of its administration shall be terminated by the Minister of Justice pursuant to Article 106, paragraph (1), item 1 of the Civil Servants Act and Article 328, paragraph (1), item 1 of the Labour Code.

(4) (Amended, SG No. 1/2011, effective 4.01.2011) Upon termination of the employment relations, the members of the National Special Intelligence Means Control Bureau who have filed an application to the Supreme Judicial Council within 14 days after the termination shall be reinstated to the position in the judiciary bodies which they occupied as at the date when they were elected by the National Assembly to the National Bureau. The length of service in the relevant position shall be recognised as length of service under Article 164, paragraphs (1) - (7) of the Judicial System Act.

TRANSITIONAL AND FINAL PROVISIONS

to the amendment of the Ministry of the Interior

(SG No. 44/2012, effective 1.07.2012)  
.....

§ 54. (1) Established hereunder, the General Directorate "National Police" is the successor of the assets, liabilities, rights and obligations of the General Directorate "Criminal Police" and the General Directorate "Police".

(2) Legal representation in proceedings pending in the General Directorate "Criminal Police" and the General Directorate "Police" is made by the Director of the Directorate General "National Police".

§ 55. With the entry into force of this law existing business and employment of civil servants and persons employed by the Chief Directorate "Criminal Police" and the General Directorate "Police" are mapped out in business and employment of civil servants and persons employed by the Chief Directorate "National Police".

§ 56. Regulations issued before the entry into force of this Act shall apply to the issuance of the new regulations to the extent they do not conflict.

§ 57. Experience acquired by the Civil Service Law and the Labour Code of employees under § 64 of the Transitional and Final Provisions of the Law amending the Law on the Ministry of the Interior (SG. 93 of 2009) respecting to work for the same employer, respectively appointing authority.

.....

## TRANSITIONAL AND FINAL PROVISIONS

to the Act to Amend and Supplement the Special Intelligence Means Act

(SG No. 70/2013, effective 9.08.2013, amended, SG No. 111/2013, effective 31.12.2013)

§ 29. (1) The service legal relationships of the civil servants of the specialized directorate of Operative Technical Operations of the Ministry of Interior shall be transformed into service legal relationships with the State Agency for Technical Operations, except for the service legal relationships of the civil servants performing activities of development and use of technical means and methods for prevention of terrorist activities, development and application of specific physical and chemical methods and means and conduct of blasting and technical examination and evaluation of explosives or of elements of explosive devices.

(2) The labour legal relationships of the employees of the specialized directorate of Operative Technical Operations of the Ministry of Interior shall be transferred to the State Agency for Technical Operations on the grounds of Article 123 of the Labour Code, except for the labour legal relationships of the employees performing activities of development and use of technical means and methods for prevention of terrorist activities, development and application of specific physical and chemical methods and means and conduct of blasting and technical examination and evaluation of explosives or of elements of explosive devices.

(3) The persons under paragraphs (1) and (2) shall be transferred to the State Agency for Technical Operations without probationary employment except for the employees, who currently are in probationary employment.

(4) The length of service, accumulated under the Ministry of Interior Act by employees, transferred to the State Agency for Technical Operations, shall be treated as employment with the same employment body, respectively employer, including for the purposes of payment of the compensations due upon termination of the relationship with the Agency.

(5) The length of service as civil servant under the Ministry of Interior Act, for which no compensations had been received prior to the transfer to the State Agency for Technical Operations, shall be taken into account when determining the amount of compensation upon termination of the service relationship.

§ 30. (1) The State Agency for Technical Operations shall be successor in title to the assets, liabilities, rights and obligations of the specialized directorate of Operative Technical Operations of the Ministry of Interior.

(2) The fixed assets of the Ministry of Interior, used by the specialized directorate of Operative Technical Operations of the Ministry of Interior, shall be made available to the State Agency for Technical Operations.

(3) Within three months of entry into force of this Act the Council of Ministers shall regulate the relations in connection with the transformation of the administrative structures under paragraph (1).

(4) The documents, prepared and stored at the specialized directorate of Operative Technical Operations, which are not subject to transfer under the procedure of the National Archive Fund Act, shall be transferred to the State Agency for Technical Operations within one year of the entry into force of this Act.

(5) Within 6 months of the entry into force of this Act the Ministry of Interior shall transfer to the State Agency for Technical Operations all active cases on operative account, kept by the specialized directorate of Operative Technical Operations. The remaining data bases at the Ministry, containing information on those cases, shall be destroyed forthwith.

(6) Pending the finalization of the procedures, related to materiel and technical support of the State Agency for Technical Operations, the Ministry of Interior shall provide the funds and resources required for performance of the activities of the Agency.

§ 31. (1) The Prime Minister shall nominate before the Council of Ministers a Chairperson of the State Agency for Technical Operations within one month of entry into force of this Act

(2) Pending the entry into office of the Chairperson of the State Agency for Technical Operations his/her powers under this Act shall be exercised by the Minister of Interior.

§ 32. Within three months of the entry into force of this Act the Council of Ministers shall adopt the Rules of Organization under Article 19h, as well as the act under Article 20a, paragraph (3).

§ 33. (1) The National Assembly shall elect the members of the National Special Intelligence Means Control Bureau within two months of the entry into force of this Act

(2) Within three months of the entry into force of this Act the Council of Ministers shall provide to the National Special Intelligence Means Control Bureau the working premises and technical means, required for the performance of its activity.

§ 34. (1) The National Special Intelligence Means Control Bureau shall prepare the rules under Article 34b, paragraph 8 within one month of entry into force of the members of the Bureau.

(2) The Chairperson of the National Special Intelligence Means Control Bureau shall approve the templates of the registers and rules under Article 34f, paragraph (3) within two months of taking office.

.....

§ 42. (Amended, SG No. 111/2013, effective 31.12.2013) This Act shall enter into force as of the date of its publication in State Gazette with the exception of § 1 and § 15, which shall enter into force as of 1 January 2015.

TRANSITIONAL AND FINAL PROVISIONS

to the Act to Amend and Supplement the Ministry of Interior Act

(SG No. 14/2015)

.....  
§ 103. (Effective 1.04.2015 - SG No. 14/2015) The provisions of the Civil Servants Act shall apply to civil servants under Article 19g, paragraph (1), item 2 of the Special Intelligence Means Act the service relationship of whom has occurred after 1 April 2015.

§ 104. (Effective 1.04.2015 - SG No. 14/2015) To the civil servants at the State Agency for Technical Operations occupying positions for civil servants under Article 19g, paragraph (1), item 2 of the Special Intelligence Means Act, whose service relationships have not been terminated by 1 April 2015, the provisions of applicable law for civil servants under Article 19g, paragraph (1), item 1 of the Special Intelligence Means Act prior to the termination of their service relationships shall apply.

§ 105. (Effective 1.04.2015 - SG No. 14/2015) Civil servants under § 104 may be reappointed or provisionally reappointed to vacant positions for civil servants under Article 19g, paragraph (1), item 2 of the Special Intelligence Means Act under the terms and procedures of the Special Intelligence Means Act.

§ 106. (Effective 1.04.2015 - SG No. 14/2015) Civil servants under § 104 may be appointed to positions for civil servants under Article 19g, paragraph (1), item 1 of the Special Intelligence Means Act under the terms and procedures of the Special Intelligence Means Act if they comply with the requirements for occupying the respective position.

.....  
§ 129. § 11, item 1, § 12, 21, 36, 85, 86, 87, 88, § 91, т. 6, § 97, 98, 99, 100, 101, § 102, item 8, § 103, 104, 105, 106 and 125 shall enter into force on 1 April 2015.

TRANSITIONAL AND FINAL PROVISIONS

to the Act to Amend and Supplement the Special Intelligence Means Act

(SG No. 74/2015)

§ 8. The terms for the use of special intelligence means in pending proceedings shall be determined under the existing procedures.

§ 9. The term under Article 31, paragraph (6) shall apply also to the information obtained before the entry into force of this Act.

.....