

# **Law no. 1/1998\***

## **on the organization and functioning of the Foreign Intelligence Service**

### **Chapter I - General Provisions**

**Art. 1.** The Foreign Intelligence Service is the state body specialized in foreign intelligence concerning the national security and the safeguarding of Romania and its interests.

**Art. 2. (1)** The Foreign Intelligence Service is part of the national defence system. Its activity is organized and coordinated by the Country's Supreme Defence Council.

**(2)** Every year, or whenever the circumstances call for it, the Director of the Foreign Intelligence Service submits to the Country's Supreme Defence Council reports on the way the Service discharges the missions incumbent on it.

**Art. 3. (1)** The Parliament of Romania exercises control upon the Foreign Intelligence Service's activity, while observing confidentiality as to the means and sources of intelligence collection. For this purpose, a special commission is set up consisting of 3 deputies and 2 senators elected from the ranks of the Commissions for Defence, Public Order and National Security of the two Chambers.

**(2)** Parliamentary control aims to check that the activity of the Foreign Intelligence Service is consonant with the Constitution and the policy of the Romanian State. The organization, functioning and control modalities are established by a joint decision of the two Chambers.

**Art. 4. (1)** With a view to fulfilling the tasks incumbent on it and for ensuring a unitary and coherent policy of the intelligence community externally, the Foreign Intelligence Service cooperates with ministries, public institutions and other corporate bodies as determined by the Country's Supreme Defence Council.

**(2)** With the approval of the Country's Supreme Defence Council, the Foreign Intelligence Service may establish relations with similar foreign bodies.

### **Chapter II - Organization and Management of the Foreign Intelligence Service**

**Art. 5. (1)** The Foreign Intelligence Service is organized and functions as an autonomous administrative authority.

**(2)** The organizational structure, the staff during peace time and upon mobilization, the regulations on the function and the attributes of the Foreign Intelligence Service are approved the Country's Supreme Defence Council.

**Art. 6. (1)** The Foreign Intelligence Service is led by a Director having the rank of a minister, appointed by the Country's Supreme Defence Council, following the proposal put forth by the President of Romania.

(2) When appointed, the Director takes the following oath in front of the President of Romania: "I..., swear to discharge in good faith and lack of partisanship, in full observance of the Constitution and laws of the country, the missions incumbent on me in my capacity as Director of the Foreign Intelligence Service."

**Art. 7. (1)** The Director of the Foreign Intelligence leads the entire activity of the Service and represents it in the relations with ministries, institutions and other public and private bodies at home, as well as with similar ones abroad.

(2) The Director of the Foreign Intelligence Service approves the staffing, responsibilities, equipping, functioning standards, regulations and organizational structures of the components thereof.

(3) In discharging the missions incumbent on the Foreign Intelligence Service, the Director issues orders and instructions, as provided by the law.

**Art. 8. (1)** Within the Foreign Intelligence Service there operates a Managing Board – a consultative body made up of the deputy directors and chiefs of some units within the structure of the Foreign Intelligence Service. The sessions of the Managing Board are chaired by the Director of the Foreign Intelligence Service and, when he is not available, by one of his deputies whom he has designated.

(2) The deputies of the Director of the Foreign Intelligence Service have the rank of Secretaries of State and are appointed by the Country's Supreme Defence Council, upon the proposal of the Director of the Foreign Intelligence Service.

(3) The composition, rules of organisation and functioning as well as the competencies of the Managing Board are approved by the Director of the Foreign Intelligence Service.

### **Chapter III - Functioning of the Foreign Intelligence Service**

**Art. 9. (1)** The Foreign Intelligence Service carries out its activity in keeping with the Constitution of Romania, the laws of the country, the decisions of the Country's Supreme Defence Council and military regulations.

(2) The activity of the Foreign Intelligence Service has the character of a state secret.

(3) The documents of the Service are kept in its own archives and may only be consulted, depending on classification, in the terms of the law and with the Director's approval.

(4) The regulations in force concerning the conveyance to other institutions of data and information having nominal or statistical registration shall be applied to the Foreign Intelligence Service only to the extent to which their supply is not conducive to compromising actions, locations and the personnel of the Service

**Art. 10. (1)** The Foreign Intelligence Service is authorized to use legal individuals working under cover, set up under the provision of the law, to use specific means, to develop and possess adequate means for obtaining, checking, protecting, evaluating, making use of and storing data and information related to national security.

(2) The sources of intelligence, the work ways and means cannot be disclosed to anyone, under whatever circumstances.

(2<sup>1</sup>) In well-determined and substantiated situations, upon the proposal of the Director of the Foreign Intelligence Service and the approval of the Country's Supreme Defense Council, the human sources can be engaged, by means of operations and concrete cases, in cooperation actions with similar partner foreign Services.

(3) The utilization of the means for collecting, checking and turning to account the data and intelligence must not in any way, infringe on to the basic rights and freedoms of citizens, their private life, honor or reputation, nor impose on them any illegal restraints.

(4) Not observing the provisions of par. (2) and (3) is punishable by law.

**Art. 11.** The Foreign Intelligence Service shall have the right, as laid down by law, to request and obtain from Romanian public authorities, economic agents, other legal individuals, as well as from natural persons, information, data or documents required for carrying out its duties.

**Art. 12.** The Foreign Intelligence Service recommends the approval of the access to classified documents, state cipher and weapons for the personnel employed in ministries and other public institutions, who work outside the country on a long-term basis, except for the individuals who belong to the National Defense Ministry.

## **Chapter IV - The personnel of the Foreign Intelligence Service**

**Art.13.** The personnel of the Foreign Intelligence Service consists of military staff, military with employment contract, and civil servants.

**Art. 14. (1)** The military staff on active service, on the reserved list, or on retirement within the Foreign Intelligence Service enjoy all the rights and duties stipulated by the normative acts applicable to the Romanian Armed Forces as well as the regulations specific to this Service.

(2) The military with employment contract are invested with the exercise of public authority while and pertaining to the fulfillment of their duties or tasks, within the competence laid down by the law for the military staff on active service. The way of employment, the length of the contract, the rights and duties of the military with employment contract are stipulated by the laws applicable to the Romanian Army and by Order of the Director of the Foreign Intelligence Service.

(3) The civil servants shall be applied, depending on each and every case in turn, the provisions by the Labour Code, the Statute of Civil Servants, as well as the normative acts and regulations specific to the Foreign Intelligence Service.

(4) Civil servants are compelled to swear in on observing the Constitution, the national laws, and the regulations specific to the Foreign Intelligence Service.

**Art. 15.** The personnel of the Foreign Intelligence Service may not be a member of political parties, formations or organizations or unfold propaganda by any means or whatever other activities in favor of the former.

**Art. 16.** The staff of the Foreign Intelligence Service who are invested with the exercise of public authority have all the rights and obligations laid down by the law for this position.

**Art.17. (1) Selecting, employing, giving grades and promoting in rank and function, transferring and retiring, termination or cancellation of the individual work contract of the staff of the Foreign Intelligence Service are made under the law, the regulations on the organization and function of the Foreign Intelligence Service, the statute of the military personnel and military regulations, and other legal dispositions. The Foreign Intelligence Service shall keep record of the public functions and of civil servants within each institution, by means of its own structures, by making derogation from the provisions of Law no. 188 / 1999 on the statute of civil servants.**

**(2) The Foreign Intelligence Service organizes its own system of training and improving the personnel, and for certain personnel categories it may use military or civilian training institutions in the country or abroad.**

**Art. 18. (1) The personnel of the Foreign Intelligence Service have the obligation to strictly keep secret the data and intelligence they get to know, as well as after they leave the Service, no matter in which manner.**

**(2) In emergency situations, some data and intelligence may be communicated only in cases authorised by law, with the previous agreement of the Director of the Foreign Intelligence Service.**

**(3) Disclosing in any way the data or intelligence that makes the object of activity of the Foreign Intelligence Service is forbidden and punishable as laid down in the law.**

**Art. 19. (1) The personnel of the Foreign Intelligence Service work either overtly or covertly, in keeping with the necessities of national security.**

**(2) The Foreign Intelligence Service provides for the protection and hiring of the military staff and civilian personnel who are exposed, while working under cover, in circumstances that preclude their own guilt.**

## **Chapter V - Final Dispositions**

**Art. 20. (1) The counterintelligence activities abroad and protection of its own personnel, both at home and abroad, as well as the control of the entire operational, guard, diplomatic mail, state cipher, technical-material, financial and medical activity is carried out by the Foreign Intelligence Service's own bodies.**

**(2) Endowment with assets and works may also be performed through its own structures, by contracts with foreign and domestic partners.**

**Art. 21. (1) The necessary funds for carrying out the activity of the Foreign Intelligence Service are assured from the state budget or from extra budgetary sources.**

**(1<sup>1</sup>) The Foreign Intelligence Service receives and administers assets in public and private property of the state and may rent them, depending on their juridical status, by keeping a quota-share of 50% of the amount of the rent and undertakes, in line with the law, activities having an economic character. The revenues thus obtained shall be entirely used for financing the material and capital expenditures, and the remainder, left at the end of the year will be reported for next year and shall be used for the same purpose.**

**(1<sup>2</sup>) The planning, the records, the use, the accountability and control of the operational expenditures destined to carry out the specific activities of the Foreign Intelligence Service is done according to the general rules on this matter approved by the Country's Supreme Defence Council.**

**(2) The planning, accountancy and utilization of the funds necessary for the functioning of the Foreign Intelligence Service are established by the Country's Supreme Defence Council, similarly to the regulations relative to operational spending.**

**Art. 22. (1) The buildings, plots of land, vehicles, technical and other means needed for the functioning of the Foreign Intelligence Service are approved and provided by the Government.**

**(2) The land and facilities sheltering activities of the Foreign Intelligence Service are assets of state public property.**

**Art. 23. On the date of the coming into force of the present law, any contrary disposition is abrogated.**

---

\* The law was modified and amended in keeping with the provisions of:

- Government Emergency Ordinance (GEO) no. 154 / 2001;
- Law no. 366 / 2002 on the approval of the GEO no. 154 / 2001;
- Government Emergency Ordinance no. 98 / 2004;
- Law no. 43 / 2004 on the approval of the GEO no. 98 / 2004.