

Public order,
national defence and security

**Law
on the national security
of Romania**

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**Law
on the organization and the operation
of the Romanian Intelligence Service**

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**Law
on the organization an the operation
of the Romanian Police**

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**Law
on the national defence of Romania**

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on the national security of Romania*

CHAPTER I

General provisions

Art. 1. – By the national security of Romania it shall be understood a state of social, economic, and political legality, equilibrium and stability that is necessary to the existence and development of the Romanian national state – a sovereign, unitary, independent and indivisible state, to the maintenance of legal order as well as of the climate for the unhampered exercise of the fundamental rights, freedoms and duties of the citizens, in accordance with the democratic principles and rules provided by the Constitution.

Art. 2. – National security shall be achieved by knowledge, prevention and removal of the domestic or external menaces that may cause damage to the values provided under Article 1.

As an expression of their faithfulness towards the country, the Romanian citizens shall have the moral obligation to contribute to the carrying out of the national security.

Art. 3. – The following are considered menaces to Romania's national security:

a) the projects and actions aiming at the suppression or at the prejudice of the sovereignty, unity, independence or indivisibility of the Romanian state;

b) the actions having as purpose, directly or indirectly, the provocation of a war against the country, or of a civil war, facilitating foreign military occupation, subjugation to a foreign power, or aiding a foreign power or organization to commit any of these deeds;

c) treason by helping the enemy;

* The Law No. 51/July 29, 1991 – Law on the national security of Romania – was published in "Monitorul Oficial al României" (Official Gazette of Romania), Part I, No. 163, August 7, 1991.

d) the military or any other violent actions aiming at the weakening of the state power;

e) the espionage, transference of state secrets to a foreign power or organization, or to their agents, illegal procurement and holding of state secret documents or data with a view to transferring them to a foreign power or organization, or to their agents, or with any other end, unauthorized by law, as well as betrayal of state secrets, or negligence in their preserving;

f) the undermining, sabotage or any other actions that have as purpose to remove by force the democratic institutions of the state or that gravely harm the fundamental rights and freedoms of Romanian citizens, or may damage the defence capacity, or other similar interests of the country, as well as the acts of destruction, degradation or bringing in an unusable state the structures necessary to the good development of social and economic life, or to the national defence;

g) the actions by which an attempt is made on the life, physical integrity or the health of the persons holding important positions in the state, or of the representatives of other states, or of international organizations, whose protection must be ensured during their sojourn in Romania, in accordance with the law, the treaties and agreements concluded, as well as with the international practice;

h) the initiation, organization, perpetration, or the supporting in any way of the totalitarian or extremist actions of a communist, fascist, iron guardist, or of any other origin, of the racial, anti-Semitic, revisionist, separatist actions that can endanger in any way the unity and territorial integrity of Romania, as well as the instigation to deeds that can put in danger the order of the state governed by the rule of law;

i) the terrorist acts, as well as the initiation or the supporting in any way of any activities whose purpose is the perpetration of such deeds;

j) the attempts committed by any means upon a community;

k) the purloining of armament, ammunition, explosive or radioactive, toxic or biological materials from the units

authorized to hold them, smuggling with these materials, the manufacturing, holding, alienation, transport or their utilization in other conditions than those provided by the law, as well as the illegal bearing of armament and ammunition, if by these deeds national security is exposed to danger;

l) the initiation or constitution of organizations or groups, adhering to them, or their supporting in any way, with a view to carrying on one of the activities mentioned under the paragraphs a) to k), as well as the carrying on in secrecy of such activities by organizations or groups constituted according to the law.

Art. 4. – The provisions under Article 3 cannot be interpreted or used with a view to limiting or forbidding the right to defend a legitimate cause, to express a protest or an ideological, political, religious or of another kind disagreement, guaranteed by the Constitution or laws.

No person can be prosecuted for the free expression of his/her political opinions, nor can he/she be the object of an interference in his/her private life, family, dwelling place, properties, correspondence or communications; no person can also be the object of some prejudices regarding his/her honour or reputation unless he/she perpetrates one of the deeds that, in accordance with the provisions of the present law, constitute a menace against the national security.

Art. 5. – National security shall be realized in accordance with the laws in force and with the obligations assumed by Romania through the international conventions and treaties regarding the human rights, which it is party to.

Art. 6. – The state bodies that have powers in the domain of national security are: the Romanian Intelligence Service, the External Intelligence Service, the Protection And Watch Service, as well as the Ministry of National Defence, the Ministry of Internal Affairs, and the Ministry of Justice, through their internal specialized structures.

The activity for the achievement of national security is organized and co-ordinated by the Supreme Council of National Defence.

Art. 7. – The Supreme Council of National Defence shall have, in the field of the national security, the following powers:

- a) to examine the obtained data and information and to estimate the state of national security;
- b) to establish the main directions of activity and to approve the general compulsory measures for the removal of the menaces stipulated under Article 3;
- c) to establish the possibilities of turning to good account the information regarding national security;
- d) to examine reports and accounts regarding the way of putting into operation the law on national security;
- e) to approve the organizational structure, the effectives, and the functioning regulations of the Romanian Intelligence Service, the External Intelligence Service, and the Protection and Watch Service;
- f) to approve the effective expenses destined to the realization of the national security.

CHAPTER II Intelligence activity

Art. 8. – The intelligence activity for the realization of the national security shall be carried out by the Romanian Intelligence Service, a state body specialized in the intelligence matters in the interior, the External Intelligence Service, a state body specialized in obtaining from abroad the data regarding the national security, and the Protection and Watch Service, a state body specialized in ensuring the protection of the Romanian dignitaries and of the foreign dignitaries during their presence in Romania, as well as in ensuring the watch of their work seats and residences.

The state bodies stipulated under paragraph 1 shall be organized and shall function in accordance with the law, and shall be financed from the state central administration budget.

The activity of the state bodies stipulated under paragraph 1 shall be supervised by the Parliament.

Art. 9. – The Ministry of National Defence, the Ministry of Internal Affairs, and the Ministry of Justice shall organize their own intelligence structures having powers specific to their activity fields.

Intelligence activity of these bodies shall be carried on in conformity with the provisions of the present law, and it shall be supervised by the Parliament.

Art. 10. – The intelligence activity for the realization of the national security shall have the state secret character.

The information from this field cannot be communicated but in the conditions of the present law.

Art. 11. – Information from the field of the national security may be communicated:

- a) to the President of the Senate, to the President of the Chamber of Deputies, as well as to the standing committees for the defence and the ensuring of public order of the two Chambers of the Parliament.
- b) to the ministers and to the heads of departments in ministries, when the information are related to the activity fields that they co-ordinate or they are responsible for;
- c) to the prefects, to the general mayor of the Capital, as well as to the chiefs of the county councils, respectively that of the Municipality of Bucharest, for the questions related to the competence of the respective bodies;
- d) to the criminal prosecution bodies, when the information concerns the perpetration of a criminal offence.

The communication of the information shall be approved by the chiefs of the bodies having powers in the field of the national security.

The provisions of the Article 10 regarding the protection of the state secret shall be applied correspondingly to all the persons stipulated under paragraph 1, sub-paragraphs a) to d).

Art. 12. – No person has the right to announce secret activities regarding the national security, taking advantage of the unrestricted access to information, of the right to their diffusion, and of the freedom of expressing opinions.

The disclosure, by any means, of secret data and information that may be prejudicial to the interests of the national security, regardless of the way in which they have been obtained, is prohibited and shall involve the responsibility of the guilty persons, according to the law.

The provisions of the paragraphs 1 and 2 do not cause damage to the freedom of opinion and expression, to the right of the person not to be in any way disturbed for his/her opinions, as well as to the right to look for, to receive and to diffuse information and ideas, by any means of expression, if these rights are exercised in accordance with the laws of Romania.

Art. 13. – The cases stipulated under Article 3 shall constitute a legal ground to request to the public prosecutor, in justified cases, and by observing the provisions of the Code of criminal procedure, the authorization for the effectuation of some acts, with the object of collecting information, consisting in: interception of communications, seeking of certain information, documents, or acts for the getting of which it is necessary the access in a place, to an object or the opening of an object; the taking over and restoring to its place of an object or document, its investigation, the drawing out of the information that they contain, as well as the recording, copying or getting of excerpts by any methods; the installation of objects, their maintenance and taking them from the places where they have been placed.

The application for authorization shall be expressed in writing, and it must include: date or indications from which to result the existence of one of menaces against the national security, stipulated under Article 3, for the prevention, finding or counteracting of which it is necessary the issue of the warrant; the classes of activities for the development of which the warrant must be issued; the identity of the person whose communications must be intercepted, if the person is known, or the identity of the person who holds the information, the documents, or the objects that must be obtained; if and when it is possible, the general description of the place where the authorized activities are to be accomplished; the validity duration of the requested warrant.

The authorization act shall be issued at the request of the bodies having powers in the field of the national security, by the public prosecutors specially appointed by the General Public Prosecutor of Romania.

In the case that the public prosecutor ascertains that the application is justified, he shall issue a warrant that must contain: the approval for the classes of communications that may be intercepted, the classes of information, documents or objects that may be obtained; the identity of the person, if he/she is known, whose communications must be intercepted, or who holds the data, information, documents or objects that must be obtained; the body empowered with it's carrying out; the general description of the place where the warrant is to be carried out; the validity duration of the warrant.

The validity duration of the warrant can't exceed 6 months. In well founded cases, the general public prosecutor can extend, at request, the duration of the warrant, without being possible to exceed 3 months, every time.

Any citizen who considers himself injured in an unjustified manner through the activities that constitute the object of the warrant provided under paragraphs 1 to 4 may lodge a complaint with the public prosecutor specially appointed, hierarchically superior to the public prosecutor who has issued the warrant.

Art. 14. – The warrant issued on the basis of Article 13 shall grant to the holders or to the authorized classes of persons the right to hold and use, without to resort to means of physical or moral compulsion, the adequate means for the carrying out of the authorized acts, and the right to be assisted by the persons whose presence is considered required.

Art. 15. – In the situations that shall necessitate the removal of certain imminent dangers for national security, the activities mentioned under Article 13 may be undertaken, even without the authorization provided by law, that authorization having to be requested as soon as possible, but not later than 48 hours.

Art. 16. – The means for obtaining the information required by the national security must not endanger, by no means, the fundamental rights and freedoms of the

citizens, the private life, their honour or reputation, or to subject them to unlawful restrictions.

Any person is protected by law against such interferences or prejudices. The culprits for the initiation, transfer or execution of such measures, without a legal reason, as well as for abusive application of the measures of prevention, discovery or counteracting of the menaces against the national security, shall be under civil, administrative or criminal responsibility, as the case may be.

The citizen who considers himself injured in his rights or freedoms by the utilization of the means provided under paragraph 1 may inform any of the standing committees for the defence and ensuring of the public order, of the two chambers of the Parliament.

CHAPTER III

Obligations and responsibilities of state bodies, of public or private organizations

Art. 17. – With a view to realizing the national security, the ministries, all the other bodies of the state, the organizations in the public or private spheres shall have, according to the law, the following duties:

a) to afford the necessary support, at the request of the bodies having powers in the field of the national security, for the carrying out of their prerogatives, and to permit their access to the data that may provide information regarding the national security;

b) to take the necessary measures for enforcement of the law on the national security in the domains in which they carry on their activity, or in the matters they are occupied with;

c) to solicit the support of the bodies having powers in the field of the national security for the carrying out of the measures necessary for the implementation of the national security in their sphere of activity.

Art. 18. – The bodies and the organizations holding state secrets, in accordance with the provisions of the special law, or the activity of which may be taken into account, through the actions considered, according to the Article 3, as menaces against to the national security, shall draw up

their own programmes for the prevention of the leakage of information of a secret nature; the respective programmes shall be submitted for specialized approval to the Romanian Intelligence Service.

The responsibility for the carrying out of the obligation provided under Article 17 and paragraph 1 of the present article shall devolve upon the head of the respective body or organization, according to the law.

There shall be excepted from the specialized approval provided under paragraph 1 the own programmes for the prevention of the leakage of information of a secret nature of the Parliament of Romania, of the Ministry of National Defence, the Ministry of Internal Affairs, the External Intelligence Service, the Protection and Watch Service, and of the General Central Board of the Penitentiaries subordinate to the Ministry of Justice.

CHAPTER IV

Sanctions

Art. 19. – The initiation, organization or the constitution on the territory of Romania of some informative structures that can cause damage to the national security, their supporting in any way or adhering to them, the holding, manufacturing or unlawful utilization of specific means for the intercepting of the communications, as well as the collecting and transfer of information of a secret or confidential nature, by any means, outside of the legal framework, shall constitute a criminal offence and it shall be punished with imprisonment from 2 to 7 years, if the deed is not considered a more serious offence.

The attempt shall be punished.

Art. 20. – The carrying on, without a warrant, of the activities subject to the authorization under the provisions of Article 13, with the exception of those undertaken in the situations set forth under Article 15, or the exceeding of the issued warrant shall be punished with imprisonment from 1 to 5 years, if the deed is not considered a more serious offence.

With the same punishment shall also be punished the deed of the civil servant who divulges, refuses or impedes,

in any way, the carrying out of the warrant issued under the terms of the Article 13.

The attempt shall be punished.

Art. 21. – The information regarding the private life, the honour or reputation of the persons, incidentally known on the occasion of the getting the data necessary to the national security, may not be made public.

The disclosure or the utilization, outside the legal framework, by the wage earners of the intelligence services, of information, of the data provided under paragraph 1, shall be considered an offence and shall be punished with imprisonment from 2 to 7 years.

The attempt shall be punished.

Art. 22. – The criminal prosecution of the offences provided in the present law shall be carried out by the bodies of the Public Ministry.

CHAPTER V Final provisions

Art. 23. – The documents of the intelligence bodies and of those having powers in the field of the national security shall be preserved in their own archives and they may be consulted only in the terms of the law.

Art. 24. – The personnel of the Romanian Intelligence Service, of the External Intelligence Service, and of the Protection and Watch Service shall consist of standing military cadres and civilian wage earners.

The military cadres of the bodies provided under paragraph 1 shall have the rights and duties provided for the military of the Romanian army.

To the civilian wage earners there are applicable the provisions of the Labour Code and the other legal rules regarding their rights and duties.

Art. 25. – The personnel provided under Article 24, paragraph 1, that execute operative powers, carry on activities involving the exercise of the state authority and enjoy all the rights and obligations provided by the law to this end.

Art. 26. – The employees of the intelligence bodies and those having powers in the field of national security cannot

be members of a party or of other organizations of a political or secret nature, and they cannot be employed for political purposes.

The persons that were found guilty of actions directed against fundamental human rights and freedoms cannot be employed in the intelligence services.

Art. 27. – The employees of the intelligence bodies and of those having powers in the field of national security shall be under the obligation to keep the state and professional secret, inclusively after leaving the office, in any way whatsoever.

Art. 28. – The persons provided under Article 27, summoned as witnesses before courts, may make depositions concerning the facts and the circumstances regarding national security they have taken notice of while carrying on the job powers, and in connection with these, only with the written agreement of the head of the body they belong to.

Art. 29. – On the date of coming into force of the present law, any other contrary provision shall be abrogated.

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on the organization and the operation of the Romanian Intelligence Service*

CHAPTER I

Co-ordination, control and powers

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

The activity of the Romanian Intelligence Service shall be controlled by Parliament. Annually, or whenever the Parliament so decides, the Director of the Romanian Intelligence Service shall submit to it reports concerning the discharge of the powers incumbent upon the Romanian Intelligence Service, according to the law.

With a view to exercising a concrete and permanent control, a common commission of the two Chambers shall be constituted.

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

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

Art. 3. – The Romanian Intelligence Service shall ensure the safeguarding of the state secret, and prevent the

* The Law No. 14/February 24, 1992 – Law on the organization and the operation of the Romanian Intelligence Service – was published in “Monitorul Oficial al României” (Official Gazette of Romania), Part I, No. 33, March 3, 1992.

leakage of data or information, which, according to the law, cannot be divulged.

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

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

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

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

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

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

- a) carry out informative and technical activities for preventing and combating terrorism;
- b) carry out antiterrorist interventions on objectives attacked or occupied by terrorists, for capturing or annihilating them, setting hostages free, and restoring law

and order. The antiterrorist interventions shall be achieved with the approval of the Executive Body of the Romanian Intelligence Service;

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

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

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

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

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

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

Art. 10. – In situations carrying menaces against Romania's national security, the Romanian Intelligence Service, through staff appointed to that end, shall request the public prosecutor to grant the warrant provided under

Article 13 of the Law on the national security of Romania, for carrying out activities authorized by it.

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

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

At the request of the competent judicial bodies, specially designated staff of the Romanian Intelligence Service may grant support in carrying out certain criminal investigation activities for offences concerning the national security.

The criminal prosecution bodies shall have the obligation to impart to the Romanian Intelligence Service any data or information regarding the national security, resulting from the criminal prosecution activity.

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

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

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

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

CHAPTER II
**Organization and operation
of the Romanian Intelligence Service**

Section 1
The Board of management

Art. 16. – In carrying out the powers established by law, the Romanian Intelligence Service shall be directed by a Board of management, a deliberative body, consisting of the director of the Romanian Intelligence Service, the prime-deputy director, the deputy directors, the chiefs of central and territorial units.

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

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

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

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

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

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

Art. 20. – For the analysis of certain problems of general interest concerning national security, the Board of

management may constitute bodies of workers including specialists from within the Romanian Intelligence Service or from without it. Designation of specialists from without the Romanian Intelligence Service shall be made with the agreement of the leadership of the respective central bodies.

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

Section 2
The Executive Body of the Board of management

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

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

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

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

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

Section 3
The director of the Romanian Intelligence Service

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

On being appointed in office, the director shall take before Parliament the following oath: „I, ..., swear to fulfil in good faith and unbiased, in full respect of the

Constitution and laws of the Country, the powers incumbent upon me as director of the Romanian Intelligence Service“.

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

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

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

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

Section 4

The structure of the Romanian Intelligence Service

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

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

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

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

CHAPTER III

Staff of the Romanian Intelligence Service

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

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

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

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

Art. 28*. – The operative personnel of the Romanian Intelligence Service shall carry out its activity openly or under cover, in relation to the needs of achieving national security.

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

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

The military staff transferred from the Ministry of National Defence, from the Ministry of the Interior, or from

* The Article 28 under Law on the organization and functioning of the Romanian Intelligence Service was modified by the Law No. 181 of 9 October 1998 published in "Monitorul Oficial al României" (Official Gazette of Romania), Part I, No. 389 of 14 October 1998.

other sectors of activity shall enter into the exclusive subordination of the leadership of the Romanian Intelligence Service.

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

Art. 31. – The training of the staff shall be achieved through its own education system or in specialized institutions of the Ministry of the Interior and of the Ministry of National Defence.

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

Art. 33. – The permanent military cadres of the Romanian Intelligence Service are entitled to a uniform, which shall be provided free of charge.

The classes of staff for whom the wearing of the uniform is compulsory during service time shall be established by the director of the Romanian Intelligence Service.

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

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

The Romanian Intelligence Service shall have a mobilization body, which shall carry out the mobilization, and hold the record of the military and civil staff existing at peace time as well as that of the reservists.

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER IV

Material assurance

Art. 40. – The Romanian Intelligence Service shall:

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

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

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

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

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

f) exercise any other powers granted by law.

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

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

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

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

Art. 43. – Under the control of Parliament, in relation to its own needs, and with strict observance of the legal provisions, within the framework of the Romanian Intelligence Service may function: a self-managed public company, production trading companies, health institutions as well as associations with a cultural and sporting character.

CHAPTER V

Final provisions

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

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

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

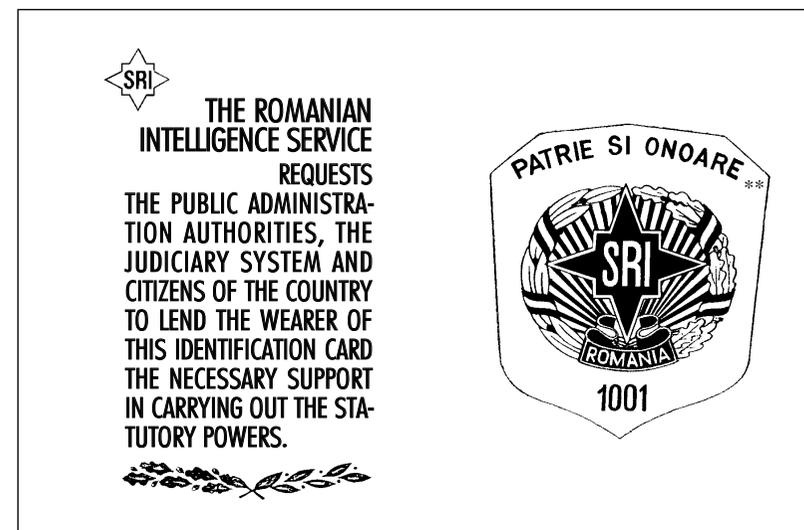
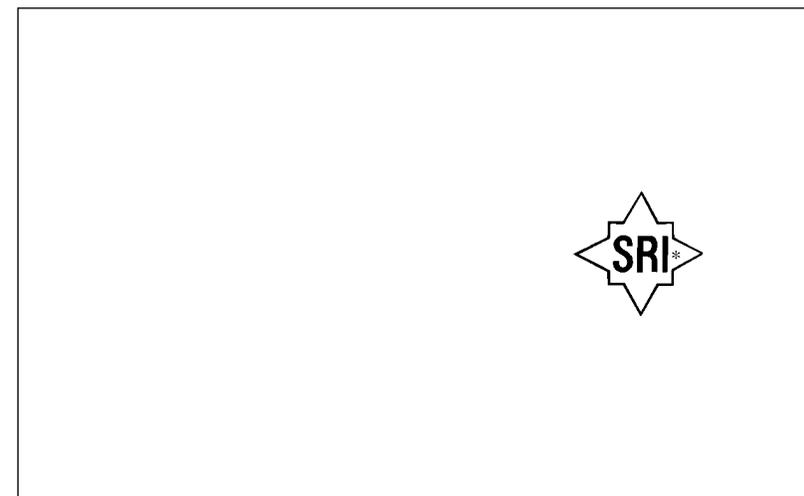
The Romanian Intelligence Service shall take over, for preservation and utilization, the archive funds concerning national security from the former intelligence bodies with competence on Romania's territory.

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

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

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

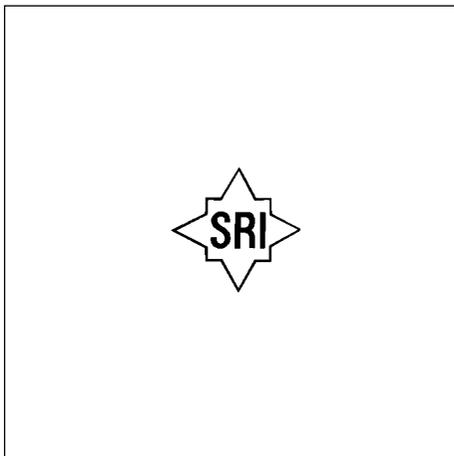
Art. 48. – The Decree of 26 March 1990 issued by the Provisional Council of National Union with regard to the setting up of the Romanian Intelligence Service as well as any other provisions contrary to the present law shall be abrogated.



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

** HOMELAND AND HONOUR.

**PATTERN AND DESCRIPTION
OF THE ROMANIAN INTELLIGENCE SERVICE'S SIGLUM**



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

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

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

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

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

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

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

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

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

L A W
on the organization and the operation
of the Romanian Police*

CHAPTER I
General provisions

Art. 1. – The Romanian Police is part of the Ministry of the Interior, and it is a specialized institution of the State which exercises on the Country's territory the powers concerning the defence of the person's basic rights and freedoms, of private and public property, the prevention and discovery of offences, the observance of law and order, in the terms of the law.

Art. 2. – The activity of the Romanian Police shall be performed exclusively on the basis and enforcement of the law. Police officers may not be members of political parties or formations.

Art. 3. – In carrying out its duties, the Romanian Police shall co-operate with other state institutions, empowered to safeguard the rule of law, and it shall co-operate in this sense with members of the community, within the limits of the law.

Art. 4. – The police shall be organized in keeping with the administrative organization of the Country's territory. It may also be organized with reference to the specific character of certain sectors of the national economy – rail, air, and naval transports – or of certain economic and social units, depending on their number and importance.

Police units shall be set up by order of the Minister of the Interior.

* The Law No. 26/May 12, 1994 – Law on the organization and the operation of the Romanian Police – was published in "Monitorul Oficial al României" (Official Gazette of Romania), Part I, Nr. 123, May 18, 1994.

CHAPTER II
Organization and operation

Section 1
Organizational structure

Art. 5. – The Romanian Police shall have the following organizational structure:

- a) the General Police Inspectorate;
- b) the General police directorate of the Municipality of Bucharest;
- c) the police inspectorates of the counties;
- d) the police inspectorates for rail, air, and naval transports;
- e) educational institutions for the training and specialization of police officers.

Art. 6. – The General Police Inspectorate shall be the central police unit charged to conduct, direct and control the activity of all other police units; it shall carry out operative activities in causes of particular importance, and any other activity given in its competence by law.

Art. 7. – The General Police Inspectorate shall be commanded by an Inspector General, appointed by decision of the Government, at the proposal of the Minister of the Interior. The Inspector General shall be seconded by a number of deputies, appointed at his proposal by the Minister of the Interior.

In enforcing the law, the Inspector General of the Police may issue orders obligatory for the subordinate personnel.

Art. 8. – The General Police Inspectorate shall have in its organizational structure general directorates, directorates, brigades, services, and offices set up with approval of the minister of the interior, within the limits of the allotted funds.

Section 2

Territorial units subordinate to the General Police Inspectorate

Art. 9. – In the Municipality of Bucharest there shall function the General Police Directorate of the Municipality of Bucharest commanded by a director-general, seconded by deputies.

In the counties there shall function police inspectorates commanded by a chief of the inspectorate, seconded by deputies.

The director-general of the General Police Directorate of the Municipality of Bucharest as well as the chiefs of the county police inspectorates shall be appointed and removed from office by order of the Minister of the Interior, with the advisory opinion of the prefect.

Art. 10. – Within the framework of the General Police Directorate of the Municipality of Bucharest there shall be organized and function district police units corresponding to its territorial-administrative organization.

In each district there shall be organized and function police stations. Their number shall be established by order of the Minister of the Interior, depending on the extent of the territory, number of population, number and importance of the economic, social, and political units as well as on the specific tasks of activity.

Art. 11. – In county municipalities and towns there shall function municipal and town police units, and in communes, police posts.

In municipalities, police stations can be set up, and in communes with a large territorial area, with scattered villages and hamlets, police offices may be set up, according to the criteria, and in the terms provided under Article 10, paragraph 2.

Art. 12. – In the rail, naval, and air transport sector, police inspectorates for transports, with specific competence, shall be organized and function.

The number of police inspectorates for transports and their territorial area of competence shall be established by order of the Minister of the Interior.

The police inspectorates for transports shall have in their structure departments, offices, compartments as well as police posts for rail, naval, and air transports.

The chiefs of the police inspectorates for transports and their deputies shall be appointed by order of the Minister of the Interior.

Art. 13. – The General Police Directorate of the Municipality of Bucharest, the county police inspectorates, the police inspectorates for transports, the municipal and town police forces, and the police stations within the framework of the districts of the Municipality of Bucharest, and of other large municipalities may be organized in brigades, departments, offices, and compartments, according to the order of the Minister of the Interior and they shall carry on their activity on the basis of the organization and functioning regulations.

Art. 14. – By order of the Minister of the Interior, at the proposal of the chief of the General Police Inspectorate, within the framework of the county police inspectorates, and of the General Police Directorate of the Municipality of Bucharest, police units may be set up in economic and social units and domains of public interest, depending on the concrete working needs and within the limit of the available effectives and approved funds.

CHAPTER III Powers

Art. 15. – The Romanian Police shall have the following powers:

a) to defend the life, corporal integrity, and freedom of the persons, the private and public property, and other legitimate rights and interests of the citizens and of the State;

b) to safeguard the maintenance of law and order, and the observance of the law;

c) to ensure, together with the troops of the gendarmerie, directly or in co-operation with other legitimate forces of the State, the control of the manifestations of violence, the neutralization of some actions of a nature to prevent the normal development of

activity on public roads, in markets and squares, railway stations, in zones of access at check points for the passage of the frontier, and in other areas of particular importance, and to restore public order;

d) to establish the necessary measures, according to the tasks entrusted by law, with regard to the safeguarding of the normal development of public meetings and manifestations;

e) to direct and co-ordinate the organization and functioning of the watch of property at public institutions and at economic trading organizations with state capital, and at request, to grant specialist support to economic trading organizations with private capital as well as to other applicants, in the organization and functioning of the watch over property;

f) to act for the collection of information with a view to taking cognizance of, preventing, and combatting criminal offences as well as in situations when there are data or indications that the commitment of illicit acts is being prepared;

g) to carry on, according to the competence established by law, activities for the verification of the commitment of offences provided by the criminal law, and to carry out investigations in connection with these offences;

h) to ensure the watch and functioning, in the terms of the law, of the places of police custody and detention on suspicion organized within the framework of the police units;

i) to carry on specific police activities in the domain of rail, naval, and air transports;

j) to exercise the control, according to the law, on the possession, carrying, and using of arms and ammunitions, the holding and using of explosives, the way in which operations with arms, ammunitions, and explosives are carried out as well as on the functioning of arms repair shops;

k) to exercise the control, according to the law, on the observance of the terms of the law with reference to toxic substances and products, drugs, and radioactive substances as well as on other objects and matters subject to

licensing, which represent a public danger, or which can be used to commit criminal offences;

l) to supervise and control the road traffic, hold records of car drivers and of motor-vehicles, except cases provided by law; to co-operate with other public authorities for improving traffic organization and systematization; to ensure a good technical condition of motor-vehicles, improvement of the skill of motor-car drivers, and the road education of the participants in the traffic;

m) to co-operate with teaching institutions and the teaching staff in the education activity of children and young people with a view to the correct circulation on public roads;

n) to co-ordinate and direct in a unitary way, together with the Department for Local Public Administration, the activity of the public administration concerning the civil status of a person, and to provide the registers and certificates necessary for this activity;

o) to keep the record of the population, deliver identity papers, and register changes of the permanent place of residence as well as of the transitory residence of Romanian citizens, in the terms of the law; in communes, to hold the nominal record of the Romanian citizens with military obligations;

p) to organize, in the terms of the law, the criminal record for the identification of convicted offenders or persons against whom measures with a penal character were taken;

r) to establish and apply sanctions for contraventions to legal provisions given in the competence of police constables;

s) to participate, together with the gendarmerie and firemen units, in co-operation with troops of the Ministry of National Defence, units of civil protection, and other bodies provided by law, in saving and evacuation activities of persons and property endangered by fires, explosions, injuries, accidents, epidemics, natural calamities and catastrophes, as well as in activities for the limitation and removal of the sequels caused by such events;

t) to fulfil any other powers that are given to it by law.

The territorial units shall have the obligation to lend support to the prefects, mayors, and chairmen of the county councils in the exercise of their powers for the maintenance of law and order.

CHAPTER IV Rights and obligations

Art. 16. – In the achievement of the powers incumbent on them, according to the law, police officers shall be invested with the exercise of public authority, and they shall have the following rights and obligations:

a) to check the papers and establish the identity of persons infringing legal provisions, or who are suspects, and to take the legal measures called for;

b) to conduct to the seat of police, with a view to taking legal measures, those who, by their actions, endanger public order, the life of persons, or other social values as well as suspects whose identity could not be established.

Persons suspected of actions endangering public order, the life of persons, or other social values, who refuse to identify themselves, or whose identity could not be established shall be conducted to the seat of the police for the clarification of the situation and, as the case may be, their immediate presentation before the competent body of criminal prosecution, which activities cannot last longer than twenty-four hours;

c) to invite at the seat of police persons whose presence is necessary for the accomplishment of the legal powers of the police, by written summons, stating the reason and aim of the invitation;

d) to take the measure of holding in custody, to carry out orders to offender, warrants for arrest, and those for the execution of punishments in the cases and in the terms provided by law.

The investigation bodies of the police shall have the obligation to inform immediately the person held in custody or under arrest, in the language that person can understand, of the reason of the holding in police custody or arrest, and of the charge, in the shortest possible time. The charge shall be brought only in the presence of an

advocate chosen by the defendant or a counsel for the defence appointed ex officio;

e) to grant support to persons in office involving the exercise of public authority, if they encounter physical resistance in the execution of their professional duties;

f) to enter, for carrying out their legal duties any precinct of economic units, public or private institutions, of social and political organizations, regardless of the holder or owner or of its destination, on board of Romanian vessels or airships, with observance of statutory provisions. Any search or act of criminal prosecution shall be made only with the consent of the management of these units, institutions, or organizations, of the commanders of the vessels or airships, or with the magistrate's authorization, in the terms approved by law.

In case of flagrant criminal offences, the consent or authorization are not required;

g) to enter the home of natural persons, at their request, or with their written consent, or with a magistrate's authorization in the terms provided by law.

In case of flagrant criminal offences the consent or authorization shall not be necessary;

h) to control the vehicles in traffic on the roads, in case of commitment of severe offences, or when there are good reasons that the commitment of offences is imminent, and the person or the goods looked for are in the controlled area;

i) to carry out controls and raids, when there are indications with regard to the commitment of offences, or the hiding of offenders or property proceeding from criminal offences;

j) to carry the armament with which they are equipped, and the necessary ammunition, regardless of whether they are in uniform or civilian dress, and to use, for the achievement of the missions, motor vehicles with or without the official marks of the police;

k) to use any transport and telecommunication means, regardless of the owner or holder – natural person or legal person – except those belonging to the diplomatic corps, for taking any legal measures which do not suffer delay and which cannot be otherwise accomplished. The expenditure

incurred shall be payed subsequently, at the request of the owners, and they shall be charged to the funds of the police bodies or to the persons having determined the intervention, as the case may be;

l) to use, free of charge, any public means of transport while in service for the carrying out of tasks which cannot be otherwise performed; the staff of the transport police shall be entitled to use, free of charge, any rail and naval means of transport in carrying out their service tasks. The transport means shall be used on the basis of the service identity card;

m) to request the support of the citizens for the fulfilment of legal duties with reference to the pursuit, catching, immobilizing, and conducting to the police units of offenders, of persons undertaking actions endangering the corporal integrity of other persons, of those who, by violent acts, disturb law and order, or maliciously damage or destroy property, as well as of persons undertaking actions of severe injury or insult against officials while performing a duty involving the exercise of public authority;

n) to exercise any other rights and carry out any other duties provided by law.

In exercising their powers, police officers shall have the obligation previously to make their quality known and to present the service identity card. They shall be obliged to act with impartiality and dignity, to have polite and civilized manners towards the citizens, but firm and relentless behaviour towards those infringing the laws of the country.

Art. 17. – In order to combat organized crime and serious offences, in the interest of criminal prosecution, the police may request the competent public prosecutor's office to authorize the interception of postal and telephone services by the empowered bodies according to Law No. 51/1991.

Art. 18. – In order to prevent and neutralize aggressive actions of persons who cause serious disorder, and which could not be staved off or annihilated by the use of other legal means, police officers may use protective shields, helmets with a protective visor, rubber truncheons,

electrostatically charged truncheons, tear-gas devices, water jets, firearms with rubber bullets, police dogs as well as other means of immobilization, which, likewise, are not dangerous to life, nor likely to produce serious corporal injury.

The means provided under paragraph 1 may be used against persons who:

- a) undertake actions endangering the corporal integrity of other persons;
- b) try to penetrate or unlawfully penetrate into the seats of public administration bodies, of political parties, or of other institutions of public or private interest, and imperil in any way their security, or that of the personnel, or disturb the normal carrying on of activity;
- c) outrage the order enforcing bodies, or persons whose office involves the exercise of public authority, by threats, striking, or any other acts of violence.

The use of the means provided under paragraph 1 against participants in aggressive actions shall be made gradually, after previously calling repeated attention on the use of such means and allowing the necessary time for the actions to cease and the zone to be left. The means used must not exceed the real needs for the prevention or neutralization of the aggressive actions.

Art. 19. – In case of absolute necessity, and when the use of other means of prevention or constraint is not possible, police officers may use the force of side arms or fire arms, in the terms strictly provided by law for:

- a) defending themselves and other persons against attacks that endanger their life and health as well as for the liberation of hostages;
- b) repelling of attacks directed against the seats or other police property or against members of the forces of order, when their lives are in imminent danger;
- c) defending the objectives, or the perimeter of the piece of ground, or the persons of which they are responsible;
- d) taking into custody of offenders caught in the act, who shall try to flee and who don't obey to summons of remaining in the place of the act;
- e) taking into custody of offenders who shall have resisted arrest by the use of side arms or fire arms, or of

those who shall have escaped from the place of detention, or run away while under escort.

Art. 20. – Use of the means provided under Articles 18 and 19 shall be prohibited against women showing visible signs of pregnancy, persons with obvious signs of invalidity, and children, except cases when they carry out an armed or group attack, endangering the life or corporal integrity of some people.

Art. 21. – In the cases provided under Articles 19 and 20, arms shall be used only after making a legal summons. The summons shall be made by uttering the word: „Halt!“. In case of insubordination, the summons shall be repeated by calling the phrase: „Halt, or I shoot!“. If the person (or persons) involved do not submit at this second summons, a third summons shall be made by a shot upwards, in a vertical plane. In case that, after the legal summoning has been carried out, according to the provisions of the present article, the person (or persons) involved fail to submit, fire arms may be used against that person (or those persons). Fire arms shall be used in such a way that it shall result in the immobilization of the person (or persons) against whom the fire arms are being used, so as to avoid causing the death of that person (or those persons).

If the necessary time for a summons is lacking, fire arms may be used without summoning in case of attacks by surprise exercised against police officers or other persons as well as for taking into custody offenders who retort with side arms or fire arms.

Art. 22. – The police shall intervene in force for preventing or neutralizing manifestations which disturb public law and order, endanger the life and corporal integrity of the persons and order enforcing authorities, or threaten to devastate or destroy buildings and property of private or public importance.

The intervention in force of the police and of other order enforcing authorities, with the technical means of their equipment, shall be decided, for each case in part, by the prefect, mayor, or their deputies from the locality in which such events have taken place, at the request of the chief or deputy-chief of the local police.

The technical means of the equipment can be used only after warning and summoning, by sound amplifying means, of the participants in the disorder, calling their attention to the need of observing law and order. If, after summoning, law and order is further infringed, the police officer appointed chief of the order enforcing disposition or the hierarchical chiefs shall summon the participants by using the formula: First summons: „Attention, please leave the... We shall use force!“, followed by light and sound signals. If, after the passage of the necessary time period for dispersion, the summoned people do not submit, a last summons shall be uttered thus: The last summons: „Leave the... Force shall be used!“

If, in such situations the use of fire arms is called for, the last summons shall be repeated once more before using them.

The use of prevention and constraint means shall cease as soon as public order shall have been restored.

Approval of the intervention is not necessary in case violence is exercised against the order enforcing bodies, or these shall be in a situation of imminent danger.

Art. 23. – Each situation in which arms have been used shall be urgently reported hierarchically. If, as a result of the use of arms the death or injury of a person has occurred, the competent public prosecutor shall be immediately informed.

Art. 24. – Police officers who have the power to act as criminal investigation bodies shall be designated by order of the inspector general of the police.

In carrying out their specific activities, police officers shall have the territorial competence corresponding to that of the police unit to which they belong.

In case of carrying on a specific measure or activity, police officers may also act in the territorial area of other police units, informing of this the competent unit.

In case of detailing for service or assignment of a mission in the territorial area of another police unit, police officers shall have the territorial competence established for that unit. Police officers from the General Inspectorate of the Police shall have a general territorial competence.

Art. 25. – Police officers shall have the obligation to intervene also beyond their work hours, service duties, and territorial competence of the unit to which they belong, when they are aware of the existence of a flagrant criminal offence as well as for preserving the evidence in the case of offences whose investigation shall be carried out subsequently by the competent bodies.

CHAPTER V

The staff of the Romanian Police

Art. 26. – The staff of the Romanian Police shall be composed of police officers and civilian employees.

The specific service rights and duties of police officers shall be established by statute.

Art. 27. – Police officers shall be forbidden to cause physical or mental pain for the purpose of obtaining, from a questioned person or from a third person, information or confessions, to punish for an act which that person or a third person might have or is supposed to have committed, to intimidate or to make pressure on a person or on a third person.

Likewise, police officers shall be forbidden to commit acts of torture in any circumstances whatsoever, whether in wartime or on the eve of war, internal political instability or any other state of emergency.

Police officers may not offer as an excuse the order of the superior, or of another public authority, to justify an infringement of the law in any of the situations provided under paragraphs 1 and 2.

Art. 28. – Police officers shall answer for acts committed abusively while fulfilling their service duties, or omitting to fulfil their duty, and they may be called to account in the terms provided by law.

Art. 29. – The police staff shall have the obligation to watch that the state of health and corporal integrity of the persons in their custody be fully protected, and especially to take measures that medical care be immediately granted each time when this is called for.

Art. 30. – The police staff shall behave correctly, it shall be upright and incorruptible, and act firmly to

prevent and combat any acts of a nature likely to diminish the authority and prestige of the institution.

Art. 31. – The police staff shall be subject to observe the law, and act for preventing any infringement of it. The police staff who becomes aware of an infringement of the rules with regard to the police officer's conduct shall be obliged to report it to the hierarchical superiors, and, if need be, to other competent authorities.

Art. 32. – The police staff shall enjoy stability at the police unit where they were appointed. The promotion in office, removal, transfer, detailing for service as well as dismissal from the police can be made in the cases provided by the statute and regulations approved by the Minister of the Interior.

Art. 33. – The civil employees shall be subject to the provisions of the statute of public servants, the provisions of the Code of Labour, and other statutory norms with reference to their rights and duties, to the extent to which by the present law it is not otherwise stipulated.

Art. 34. – Police officers shall be appointed from among the graduates of the specialist teaching institutions.

In order to meet the need of specialists, the graduates of civil teaching institutions may also be appointed to the police.

The General Inspectorate of the Police shall organize courses of lectures for the specialist training of police officers, the improvement of their specialist training, and of that of the civil employees, within the limit of the funds approved to this end.

For certain periods of time, in the terms of the law, police officers from the reserve may be recalled in activity.

Art. 35. – On appointment, police officers shall take the oath provided by the police officer's statute.

On being appointed, civil employees shall take the following oath: „I swear to observe the Constitution and laws of the Country, to keep the professional secret, and to fulfil in good faith the tasks entrusted to me.“

Art. 36. – The money dues of the police staff shall be those established by laws and Government decisions, on the basis of which the Minister of the Interior may issue application orders and instructions.

Art. 37. – The pension rights of the police staff shall be established in the terms of the law.

The police staff, their families and descendants shall have assured medical and social assistance, and the rights to social security, as the case may be, in the terms provided by law.

Art. 38. – In exercising their service duties, police officers shall enjoy special protection, according to the provisions of the criminal law.

In the case of offences committed against the spouses, or children of police officers, aiming at intimidation or revenge for legal measures taken by them in the exercise of their service powers, the maximum limits of the penalties provided by the Criminal Code shall be increased by two years.

The murder committed against police officers in the exercise of their service duties or in connection with the carrying out of these duties shall constitute a particularly severe killing offence, and it shall be punished according to Article 176 of the Criminal Code.

Art. 39. – Police officers who shall have lost all or most of their working capacity as a result of offences committed against them during or in connection with their service shall receive a pension for permanent invalidity equal to the salary received at the respective moment, and they shall benefit once only of a gratification equal to five times the pay received in the last month of activity.

Police officers who shall have become partially incapable of work under the terms of paragraph 1, and are unable to continue the exercise of their profession shall benefit by a pension equal to at least one half of the pay received in the last month of activity, by a gratification equal to three times the pay received at the respective moment as well as by the right to cumulate the pension with the wages they might receive for another activity carried out.

Art. 40. – The successors of police officers deceased during or because of the service, or in the terms of Article 38 paragraph 3 shall be granted a pension equal to the whole pay they had at the date of the demise.

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

Art. 41. – Of the rights under Articles 38, 39, and 40 shall benefit any member of the armed forces who shall have participated in co-operation activities with a view to the carrying out of certain tasks.

Art. 42. – In the case of the persons provided under Article 38, subject to threats or ill-treatments, as a means of intimidation or revenge, the Ministry of the Interior shall have the obligation operatively to grant them all the support with a view to remove the danger, catch and bring the culprits to account.

Art. 43. – The Ministry of the Interior shall advance the sums necessary to cover the material prejudice suffered by police officers and members of their families, in the terms of Article 38, subsequently recovering them from the culprits, according to the law.

Art. 44. – The components of the armed forces co-operating with the police, who shall have cases entering under the sphere of Article 38 shall provide the sums necessary to cover the material prejudice suffered by members of the armed forces and their families.

Art. 45. – The police staff may be granted orders, medals, and titles of honour, provided by the law, for faithfully fulfilling the obligations incumbent on them for defending public order and the laws of the country.

CHAPTER VI Final provisions

Art. 46. – The units of the Romanian Police shall co-operate with:

- a) the specialist central public authorities and the local public administration authorities;
- b) the state bodies with powers in the domain of national security;
- c) the large units, units, and institutions of the Ministry of National Defence in fulfilling certain duties with regard to the watch of certain economic and social units, control of

violent manifestations, and restoring lawful order, civil defence, carrying into effect of military obligations, circulation on public roads as well as of other duties provided by law or established by the Government, or by decisions of the Supreme Council of National Defence;

d) the other units and bodies of the Ministry of the Interior.

Art. 47. – The chiefs of the local police bodies shall have the obligation periodically or on request to inform the prefects and mayors on the state of offences, measures taken for the prevention and discovery of crimes, maintenance of law and order, assurance of the watch, and they shall request the public administration's support in connection with measures called for in the territorial-administrative unit for the application and observance of the laws, and the decrees, decisions, and statutory orders of the Government.

Art. 48. – Information with a confidential character in the possession of the police staff shall be kept secret, except cases when the duties of the office or the needs of justice call for their disclosure.

Art. 49. On request, the General Police Inspectorate may authorize the setting up of detective associations, or the exercise of the private detective office.

The authorization conditions for the organization and functioning of detective associations, or the exercise of the private detective office shall be established by Government decisions.

Art. 50. – The Romanian Police shall co-operate with similar bodies from other states and with international police bodies on the basis of understandings to which Romania is part. Within the framework of the International Criminal Police Organization – INTERPOL – the Romanian Police shall co-operate with the national police authorities of other states members of this organization.

Art. 50¹.* – In the interest of ensuring the law and order and collective security, at the request of the President of Romania, the Parliament may approve the participation of the Romanian Police, with effectives and equipment in

* The Article No. 50¹ under Law on the organization and functioning of the Romanian Police was added by the Law No. 179 of 4 November 1997 published in "Monitorul Oficial al României", Part I, No. 305 of 10 November 1997.

endowment, in the setting up of the international police forces destined to some missions of training, assistance and co-operation in the specific domains and for humanitarian actions.

During the fulfilment of the missions stipulated under para 1, the police effectives participating shall have the regime of the military from the troops of the Ministry of National Defence that carry out missions abroad.

Art. 51. – The Romanian Police shall organize its own offences and criminality data bank.

Art. 52. – Police units shall use their own motor vehicle fleet and they shall be equipped with the fighting technics, technical and scientific apparatus, and other necessary means for the fulfilment of their service duties.

Health assistance units, sports sections or associations, and appended farms may be constituted as part of the police units.

Art. 53. – The structure of police units and the staff posts for each unit shall be established by the Minister of the Interior in relation to the effectives approved by Government decisions.

Art. 54. – Within 90 days after enactment of the present law, the Government shall subject to Parliament for approval the bill on the statute of police officers.

Art. 55. – The Law No. 21 of 18 November 1969 on the organization and functioning of the militia as well as any other contrary provisions shall be abrogated.

LAW

on the national defence of Romania*

CHAPTER I

General provisions

Art. 1. – The National Defence shall comprise the aggregate of measures and activities adopted and carried out by the Romanian State in order to ensure the national sovereignty, the independence and unity of the state, the country's territorial integrity, and constitutional democracy.

Art. 2. – The activities regarding the national defence are ensured and carried out by the public authorities according to the competences stipulated by the Constitution and the other laws of the country.

The measures adopted in connection with the national defence shall be compulsory for all the citizens of the country, for the public authorities and public and private institutions, and for all economic trading organizations irrespective of the property form.

Art. 3. – The regulations regarding the national defence shall be based on the observance of the provisions of the Constitution and of the country's laws, on the principles of the military doctrine of the Romanian State, and on the rules generally accepted by the international law, as well as on the provisions of the conventions which Romania is party to.

Art. 4. – In case of an aggression that shall encroach on the territorial integrity, on the existence and unity of the Romanian State and of the Romanian people, an aggression the proportions of which shall surpass the combative capacity of the armed forces organized on the principle of the defensive sufficiency, the ripost shall include the corresponding forms in which all necessary human and material resources will be engaged in order to repulse the respective aggression.

*The Law No. 45/July 1, 1994, – Law on the national defence of Romania – was published in "Monitorul Oficial al României" (Official Gazette of Romania), Part I, No. 172, July 7, 1994.

Art. 5. – In the interest of the collective security and in accordance with the obligations assumed by Romania through international treaties, at the request of the President of Romania, there shall be submitted to the Parliament for approval the participation with effectives and military techniques to the constitution of the international forces meant to the maintenance of the peace or having humanitarian purposes.

The participation without Romania's territory of some units of the army with effectives and military techniques at the common military exercises with units of other states shall be approved by the Supreme Council of National Defence under the previous notification of the Parliament.

The development, in a determined period of time, of the army's exercises and operations that shall involve the entering, sojourn or the passing of certain foreign military units on the Romania's territory shall be separately approved for each case by the Parliament of Romania at the previous request of the President of Romania.

CHAPTER II

The structure of the national defence system

Art. 6. – The national defence system shall include: the command, the forces, the resources, and the territorial infrastructure.

Art. 7. – The command of the national defence system shall be an exclusive and inalienable prerogative of the constitutional authorities of the state and shall be carried out by: Parliament, the President of Romania, the Supreme Council of National Defence, the Government of Romania, the Ministry of National Defence, and the authorities of the public administration which have prerogatives in the domain of the national defence.

Art. 8. – In order to command the military actions on strategical level in wartime the General Headquarters shall be set up, directly subordinate to the Supreme Council of National Defence. The appointment of the head of the General Headquarters shall be made by the President of Romania, at the proposal of the minister of national defence.

The organizational structure and the powers of the General Headquarters shall be established in the peacetime by a decision of the Supreme Council of National Defence, at the proposal of the minister of the national defence.

Art. 9. – In order to ensure the unitary command in the wartime, in each county, and in the Municipality of Bucharest it shall be set up by a decision of the Supreme Council of National Defence, the office of military commander subordinate to the General Headquarters.

The powers of the military commander shall be established in peacetime by the General Staff and they shall be approved by a decision of the Supreme Council of National Defence.

The appointment of the military commanders of the counties and of the Municipality of Bucharest shall be carried out by the head of the General Headquarters.

Art. 10. The forces destined to the defence shall be composed of armed forces and protection forces.

Art. 11. – The armed forces shall include the army, large units, and units subordinate to Ministry of the Interior, those belonging to the intelligence services of the state, and other armed defence formations organized in accordance with the law.

Art. 12. – The protection forces shall include: the civilian protection units and formations, the sanitary-voluntary formations of the Red Cross, and other formations that shall be established by the law.

Art. 13. – The forces destined to the defence shall carry on specific training activities in the boundaries of the terrestrial, aerial, maritime and fluvial national space, by observing the standards of the environment protection.

In order to carry out these activities, the forces destined to the defence shall make use of the shooting ranges and the other fittings out at their disposal, as well as of the plots of land, airports, airfields, harbours, spaces and other immovables established together with the respective authorities of the public administration, natural or legal persons, in keeping with the provisions of the law on requisitions.

After the performing the activities provided under paragraphs 1 and 2, the respective immovables shall be restored in the state in that they have been taken over.

Art. 14. – The resources of the national defence shall be constituted of the whole of human, financial, material and other resources that the state shall ensure and engage in the supporting the efforts of the country's defence.

Art. 15. – The human resources shall be constituted of the whole population capable of an effort for the national defence. The preparation of the population for defence shall be carried out according to the law.

Art. 16. – The Romanian citizens capable of military service cannot be appointed in managing positions within the institutions of the public authorities, if they have not discharged their above mentioned duty for reasons imputable to them.

Art. 17. – The ministers, the state secretaries and under-secretaries, as well as the dignitaries having a similiar rank, the prefects, subprefects, mayors and secretaries in municipalities, towns and communes, the managers of the economic trading organizations and of the public institutions, which have assignments in the event of a mobilization, shall be trained by the General Staff with the view to carrying out the powers that are incumbent upon them in the domain of the national defence.

The mode of organization and participation in the training of the persons holding the positions set forth under paragraph 1 above shall be established by a Government decision.

Art. 18. – The other resources, as well as the preparation of the economy and of the land for the national defence shall be ensured in accordance with the legal provisions.

Art. 19. – The expenses necessary to the organization, equipment, mobilization, maintenance and training of the active army force and of the reserve forces, and those for financing of the investment works of the armed forces shall be granted from the state budget and from other funds legally constituted.

Art. 20. – The territorial infrastructure shall be made up of the aggregate of the works and development of the territory that may be used with the object of the national defence.

The preparation of the territory for the national defence shall be ensured in conformity with the provisions of the law.

Art. 21. – The ministries, the public administration authorities, the economic trading organizations, regardless of the property form, shall be bound to obtain an advisory opinion from the General Staff for the laying-out of the new investment objectives and the development of the existing ones, with the purpose of their integration into the infrastructure of the national defence system. The list of the investment and development objectives, as well as the criteria of their achievement, for which the General Staff's advisory opinion is compulsory, shall be established by a Government decision.

Art. 22. – In case of proclamation of a state of siege or emergency, in that of mobilization or war proclamation, the goods belonging to the economic trading organizations, public institutions, to other legal or natural persons may be commandeered, and the citizens albe to work may be summoned to carry out services, under the provisions of the law.

In the situations provided for under paragraph 1, the economic trading organizations the activity of which is directly linked to the supplying of the necessary resources for the defence may be militarized, by a decision of the Supreme Council of National Defence. Their organization and functioning shall be established by a Government decision.

Art. 23. – The armed forces shall store, in the peacetime, in their own stocks, armament, warfare techniques and materials that should ensure the achievement of their tasks, the compensation of the consumptions and of the probable damages caused by the war.

The classified list and the levels of these reserves shall be approved by the Supreme Council of National Defence, on the proposal of the Ministry of National Defence, and of the competent authorities, as the case may be.

The periodical replacement and the transfer to the economy of the goods from the constituted reserves shall be regulated by a Government decision.

Art. 24. – The preparation stage of the people, economy and territory for defence shall be verified through exercises and mobilization trainings by the General Staff

together with the State Central Agency for Special Matters, and with the National Administration of the National Material Reserves, on the basis of the programme approved by the Supreme Council of National Defence.

Art. 25. – The institutions and the public administration authorities, the economic trading organizations, regardless of the property form, have the obligation to wholly satisfy the orders necessary for the national defence, in the terms established by contract in the peacetime, and with priority, in the wartime.

CHAPTER III

The organization of the army

Art. 26. – The army is the basic constituent of the armed forces, which shall ensure, in the peacetime as well as in the wartime, the integration into a unitary conception of the activities of all the forces participating in the actions of national defence.

Art. 27. – The army has in its organization: the central bodies of the Ministry of National Defence, the classes of forces, and the military territorial bodies.

Art. 28. – The central bodies of the Ministry of National Defence shall be established by law.

Art. 29. – The classes of the forces of the army are: the land forces; the air force and antiaircraft defence; the navy. They have in their composition general staffs, branch commands, large units and fighting units, teaching and training units, as well as units and formations for battle ensuring and for logistics.

Art. 30. – The territorial military bodies have in their composition: territorial military commands, county, municipality and district recruit offices.

CHAPTER IV

The powers of the public authorities regarding the national defence

Art. 31. – The Parliament, the President of Romania, the Government, and the Supreme Council of National Defence shall exercise their powers regarding the national

defence in accordance with the provisions of the Constitution and of the country's laws.

Art. 32. – The Government of Romania shall be responsible for the organization of the activities and implementation of the measures regarding the national defence; in this respect it shall have the following powers:

a) to co-ordinate the activities of the ministries and of the other authorities of the public administration for the implementation of the measures regarding the ensuring of defensive capacity of the country;

b) to ensure the allocation and utilization, in accordance with the law, of the financial and material resources destined to the organization, equipment and mobilization of the armed forces, to the maintenance and training of the effectives, to the maintenance in a promptness state of the techniques and armament, as well as to the achievement of the investment works for defence;

c) to establish the obligations that are incumbent upon the ministries and economic trading organizations deriving from the programme of mobilization of the national economy for the first war year;

d) to ensure, in the peacetime the constitution of the material reserves necessary in the wartime both for the defence needs and for that of the population;

e) to direct, through the prefects, the pertaining activities in counties and in the Municipality of Bucharest.

Art. 33. – The Ministry of National Defence shall be responsible for the carrying out, in the military domain, of the fundamental conception of the country's defence, and to this effect it shall:

a) examine the needs for the national defence and propose to the competent authorities established by the Constitution and by other laws the measures regarding the organization and equipment of the army, the preparation of the population and of the territory;

b) ensure the preparation of the commands and the training of the active army force and of the reserve effectives;

c) organize, in the peacetime, the preparation for mobilization of the army and of population; make proposals for the declaration of the partial or general mobilization and direct its development;

d) lead and inspect, through the General Staff, in co-operation with other qualified authorities, the preparation measures taken by the ministries, economic trading organizations, and public institutions with a view to realizing the production and services for the armed forces, to elaborating the works for mobilization at the labour place, and preparing the territory for the defence.

Art. 34. – The ministries, the intelligence services of the State, the other authorities of the central public administration, shall be responsible for the carrying out the defence measures of the country, each in its field of activity according to the law; the heads of the mentioned authorities shall yearly or whenever they are asked submit to the Parliament, Government or to the Supreme Council of National Defence, as the case may be, reports regarding the exercise of the powers regarding the national defence.

At the declaration of mobilization and of the state of war, the competent ministries shall directly be responsible for the allocation of the resources regarding: the raw materials, industrial and food products, energy, transports, public works, and communications.

The needs of the forces destined to the defence shall be assured with priority.

Art. 35. – In the peace time and in case of mobilization or in a state of war, the local public administration authorities shall have, according to their competence, in their territorial area, the following powers:

a) to ensure the carrying out by the economic trading organizations, public institutions and natural persons the provisions and measures regarding the preparation of the population, economy and of the territory for defence;

b) to have in view and to intervene for the satisfying the demands required by the military units in their territorial area for mobilization needs;

c) to carry out the necessary measures for the achievement of requisitions and summons for performance of services, according to the law;

d) to draw up, to make topical and to put at the disposal of the county recruit offices and at that of the

Municipality of Bucharest the economic–military monograph of the respective administrative-territorial units;

e) to ensure to county, municipality and district recruit offices the plots of land, the buildings, and telecommunication installations, the endowments and the funds necessary for carrying on their activity, according to the standards established by a Government decision;

f) to carry out any other powers regarding the national defence, according to the law.

CHAPTER V

Sanctions

Art. 36. – Non-observance of the provisions of the present law shall involve the penal, contravention, administrative or civil responsibility, as the case may be.

Art. 37. – There shall be considered petty offences and sanctioned with a fine from Lei 200,000 to Lei 5,000,000 the following deeds, if they are not committed in such conditions so that, according to criminal law, be considered offences:

a) non-observance of the provisions under Article 21 regarding the obtaining of the opinion of the General Staff, or non-observance of the conditions provided in the respective opinion;

b) non-fulfillment, in the peacetime, by those mentioned under Article 25, of the obligations regarding the state orders necessary to the national defence;

c) hindering of the control bodies to fulfil the powers provided by the present law.

Art. 38. – The finding of the petty offences and the application of the sanctions shall be made by the authorities established by a Government decision.

Art. 39. – The provisions of the present chapter regarding the petty offences shall be supplemented with the provisions of the Law No. 32/1968 regarding the finding and sanctioning of the petty offences, with the exception of the Articles Nos. 25, 26 and 27.

CHAPTER VI
Final provisions

Art. 40. – On the date of coming into force of the present law, any other contrary provisions shall be abrogated.

Art. 41. – The present law shall come into force on the date of its publication in the Monitorul Oficial (Official Gazette of Romania).

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