

# **LAW**

## **ON DETECTIVE ACTIVITIES**

### **I. INTRODUCTION**

#### **Article 1**

This Law shall regulate operations of legal entities, entrepreneurs and individuals carrying out activities in the area of providing detective services (hereinafter referred as: detective activities), requirements for their licensing, manner of operations and supervision of their operations.

#### **Article 2**

Legal entities and entrepreneurs registered for detective activities and/or individuals who are employed for the purpose of performing detective activities shall not be allowed to carry out operations that are in exclusive competence of state authorities and to apply operational methods and resources and/or operational-technical resources and methods that competent authorities perform and/or use on the basis of special regulations.

#### **Article 3**

The terms used in this Law shall have the following meaning:

1) **Detective activities** are activities classified in the field of administrative and supporting services in the branch and group of investigation activities including investigation and detective services and activities of all private investigators no matter for whom and what they investigate (detective activities). Investigation and detective services are activities of collecting data and their processing and transferring information in compliance with this Law and other regulations carried out by legal entities and entrepreneurs for detective activities as controllers and employed detectives as processors;

2) **Legal entity for detective activities** is a company dealing with detective activities under the terms and conditions specified in this Law and registered in compliance with regulations;

3) **Detective** is an individual who is employed in a legal entity for detective activities and who holds a licence for performing detective activities under the terms and conditions specified in this Law;

4) **Independent detective** is a detective who independently carries out detective activities under the terms and conditions specified in this Law and who is registered in compliance with regulations as an entrepreneur (hereinafter referred as the: entrepreneur for detective activities);

5) **Licence** is:

(1) Decision allowing legal entities and entrepreneurs that fulfil prescribed requirements to perform detective activities,

(2) Decision allowing individuals who fulfil prescribed requirements to perform detective activities;

6) **ID card** is a public document for identifying persons engaged in detective activities;

7) **Data** is any piece of information related to an individual or purpose of processing regardless of the form in which it is stated and information carrier (paper, tape, film, electronic medium, etc.), by whose order, in whose name and/or for whose account information has been stored, date when information is created, place where information is stored, way of obtaining information (directly, by listening, by watching, etc. and/or indirectly, by inspecting documents containing information, etc.), or regardless of other features of information;

8) **Data processing** is any action undertaken in the connection with data such as: collecting, writing, transcription, reproduction, copying, transmission, searching, classification, storage, separation, cross-referencing, consolidation, aligning, modification, securing, using, making available for perusal, disclosure, dissemination, recoding, organizing, keeping, adapting, revealing by transmission or making available in some other way, hiding, relocation and making otherwise inaccessible, as well as conducting other actions in the connection with stated data regardless of whether performed automatically, semi-automatically or otherwise;

9) **Data controller** is a legal entity and entrepreneur for detective activities or an individual, some other legal entity and/or public authorities that perform data processing;

10) **Data file** is a set of data which is automatically or semi-automatically kept and made available according to persons, subjects or some other designation regardless of the way of filing and the place of storage;

11) **Data user** is an individual, legal entity and/or public authority that are authorized to use data by virtue of law, contract with the controller or based on person's consent;

12) **Data processor** is a detective or a legal entity and entrepreneur for detective activities to which a controller has delegated certain activities regarding processing by virtue of law or contract.

## II. DETECTIVE ACTIVITIES

### 1. Requirements for Detective Activities

#### Article 4

Detective activities shall be carried out by legal entities for detective activities and entrepreneurs for detective activities and detective work shall be carried by detectives if they have licence for detective activities and/or detective work issued by the Ministry of Interior (hereinafter referred as the: Ministry).

#### a) Licence for Legal Entities and Entrepreneurs

#### Article 5

Licence for detective activities shall be issued to a legal entity for detective activities and to an entrepreneur for detective activities:

1) That has a document on job systematization with the description of work and duties of employees for every position;

2) That has at least two employed detectives if activities are carried out as a legal entity for detective activities and/or at least one person with a licence for detective work if activities

are carried out as an entrepreneur for detective activities;

- 3) If a responsible person in a legal entity has passed corresponding security check.

In addition to requirements referred to in the paragraph 1 of this Article, licence for detective activities shall be issued to a legal entity for detective activities that has appointed for a responsible person not a detective but a person that:

- 1) Is a citizen of the Republic of Serbia;
- 2) Is of age;
- 3) Has university degree.

#### **b) Licence for Individuals**

##### **Article 6**

Licence for detective activities shall also be issued to an individual that:

- 1) Is a citizen of the Republic of Serbia;
- 2) Has at least higher education at studies of the first degree (undergraduate studies and basic vocational studies) and/or studies lasting up to three years
- 3) Has passed corresponding security check;
- 4) Has psychophysical abilities for detective work as evidenced by a medical certificate from competent health institution;
- 5) Has completed training program and has obtained qualifications for detective work;
- 6) Has passed licence exam for detectives before the Ministry's Commission.

It shall be considered that a person with five years of experience in jobs of authorized police officers, in defence operations, security and intelligence operations, in positions of a judge or a prosecutor, as well as in professional jobs in the court or public prosecutor's office fulfils requirements referred to in the paragraph 1, item 5) of this Article.

##### **Article 7**

The manner of conducting training and qualifying persons for detective work, program of training and qualifying, taking licence exam for detectives shall be prescribe by the Minister in charge of internal affairs (hereinafter referred as the: Minister).

Costs for conducting training and qualifying shall be borne by a person taking licence exam by crediting the account of the budget of the Republic of Serbia designated for public revenues.

#### **v) Business Premises**

##### **Article 8**

A legal entity for detective activities and/or an entrepreneur for detective activities shall have adequate premises secured from theft and unauthorized access.

A legal entity for detective activities and/or an entrepreneur for detective activities shall provide a strongbox or a safe deposit box for keeping data files and other registers in compliance with regulations on data confidentiality.

More details about business premises and physical and technical measures for keeping data files and other records shall be prescribed by the Minister.

## **2. Licence Application**

### **Article 9**

Licence application shall be submitted to the Ministry.

The application shall be accompanied by deeds, certificates, confirmations, excerpts, and/or public documents proving the fulfilment of requirements referred to in the Article 5, Article 6, paragraph 1, items 1), 2) and 4) and paragraph 2 and Article 8 of this Law.

The licence shall be issued for the period of five years.

A new licence shall be issued to a person whose licence has expired at request in accordance with terms and conditions stipulated by this Law for licence issue.

An application for a new licence shall be submitted not earlier than 30 days before the expiration of a valid one.

At the request of a legal entity for detective activities and/or an entrepreneur for detective activities or a detective to whom decision allowing detective activities and/or detective work has been issued, the Ministry shall issue a licence in the form of a special document (solemn form of a licence).

The contents of the application for issuing a licence, as well as the appearance and contents of the solemn form of a licence shall be prescribed by the Minister.

## **III. AUTHORIZATIONS AND MANNER OF PERFORMING THE JOB OF A DETECTIVE**

### **1. Data Processing**

#### **Article 10**

A legal entity for detective activities, an entrepreneur for detective activities and/or a detective shall be allowed to process data about:

- 1) Missing persons or persons who are hiding for the purpose of avoiding criminal prosecution;
- 2) Persons who have caused damage to clients if legally prescribed requirements for damage liability have been fulfilled;
- 3) Persons who anonymously and unlawfully act towards clients with a threat of harmful consequences;
- 4) Lost or stolen property;
- 5) Effectiveness of legal entities and entrepreneurs;
- 6) Protection of intellectual and industrial property.

On the occasion of data processing, a detective shall be forbidden to perform activities which are within the competence of state authorities.

## **Article 11**

The manner of collecting data while carrying out detective activities and/or detective work shall be in compliance with this Law and other applicable regulations pertaining to the conduct of proceedings and personal data protection and data shall be collected for the purpose of contract implementation.

## **2. Contract**

### **Article 12**

Detective activities and/or detective work shall be carried out only on the basis of and within the scope of a contract concluded in writing between a legal entity for detective activities and/or an entrepreneur for detective activities and a client.

The contract referred to in the paragraph 1 of this Article shall, inter alia, contain the following:

- 1) Clearly defined purpose of data processing with an explanation;
- 2) Sources for data collection – from persons they refer to, from authorities legally empowered for data collection and/or from other persons;
- 3) Manner of data use;
- 4) Type and degree of data confidentiality;
- 5) Term for data storage and use;
- 6) Measures for data protection.

After the conclusion of a contract, a client shall give to a legal entity for detective activities and/or an entrepreneur for detective activities written authorization for the performance of agreed services.

A legal entity for detective activities and/or an entrepreneur for detective activities shall be obliged to reject the conclusion of a contract on providing services if the client's request relates to performing work which is not within its competence, when processing of data which should not be processed is requested and when the provision of requested services is contrary to the interest of other clients with whom contracts have already been concluded and contrary to other laws and public morality.

## **3. ID Card**

### **Article 13**

When carrying out his duties, a detective shall have his ID card and an authorization for agreed services given by a client and present them for inspection to authorized police officers at their request.

A detective ID card shall be issued by the Ministry at the request of a legal entity for detective activities or an entrepreneur for detective work for a detective who has passed licence exam and completed an internship in the duration of six months in an entity registered for detective activities.

A detective whose employment is terminated shall immediately return his ID card to a legal entity for detective activities where he has been employed which in turn shall within five days deliver it to the Ministry and an entrepreneur for detective activities who stops with detective work shall deliver the ID card to the Ministry within five days after deletion from the register of competent authorities.

#### **Article 14**

The contents, appearance and manner of use of detective ID card shall be prescribed by the Minister.

For issuing a detective ID card, stamp duty shall be paid.

#### **4. Firearms**

##### **Article 15**

A detective shall be allowed to obtain a licence for carrying personal weapons in compliance with the law governing weapons and ammunition.

With respect to the Law on Weapons and Ammunitions, legal entities for detective activities shall not be allowed to possess weapons.

##### **Article 16**

When carrying his duties, a detective shall be allowed to use firearms and physical force exclusively for the purpose of protecting his own life and bodily integrity and only if otherwise he is not able to repel simultaneous and direct unlawful attack.

When using powers referred to in the paragraph 1 of this Article, a detective shall be obliged to adhere to the principle of legality and proportionality and to act with as little as possible harmful consequences for a person.

A detective shall be obliged to provide first aid to the person he has hurt by using weapons or physical force, as well as to notify medical service about the injury.

A detective or a legal entity for detective activities or an entrepreneur for detective activities shall be obliged to immediately notify competent police department about the use of weapons or physical force that have caused serious bodily harm to a certain person.

The report on the use of firearms and physical force referred to in the paragraph 4 of this Article shall be submitted by the detective to a responsible person in a legal entity for detective activities within 12 hours.

A legal entity for detective activities and/or an entrepreneur for detective activities shall deliver a report on the use of firearms and physical force that have caused serious bodily harm to a certain person to the police department within 12 hours.

#### **5. Manner of Data Collecting and Processing**

##### **Article 17**

A detective shall be entitled to collect and process data about other persons in compliance with regulations governing personal data protection and free access to information of public importance.

A detective shall be obliged to present at request his detective ID card and authorisations for conducting his work to a person from whom he is obtaining information.

Processing without consent shall be allowed in compliance with regulations governing personal data protection.

### **Article 18**

A detective who when performing his duties has found out about a crime prosecuted ex officio, he shall be obliged to immediately notify the police or a competent public prosecutor about his knowledge.

### **Article 19**

At the request of an authorised police officer, a legal entity or an entrepreneur for detective activities shall be obliged to ensure inspection of all registers anticipated by this Law and available evidences when there is a decision for that of a competent court. Without the court decision, evidences and objects that can be seized as objects of a crime in compliance with the law governing criminal procedure should be available for inspection.

An authorised police officer shall prepare a report about carried out inspection.

### **Article 20**

State authorities, a legal entity maintaining certain registers based on public empowerments or other data file controllers shall give to a detective upon written application with explanations the following information:

- 1) Places of residence and addresses of persons;
- 2) Owners of motor vehicles and vessels;
- 3) Insurance policies;
- 4) Owners of real estate;
- 5) Pension and disability insurance;
- 6) Data from court documents in case a client is entitled to obtain them;
- 7) Data from state archives.

An application to obtain data referred to in the paragraph 1 of this Article shall compulsorily contain the following:

- 1) Title, name, head office and address of a legal entity and an entrepreneur for detective activities;
- 2) Type of requested information;
- 3) Date of the beginning of processing and/or of setting up a data file;
- 4) Purpose of processing (explanation);
- 5) Legal grounds for processing (client's authorisations);
- 6) Title, name, head office and address of a client.

Authorities, legal entity or other data controllers referred to in the paragraph 1 of this Article shall be obliged to reject disclosing data which have been designated as confidential according to the regulations on data confidentiality.

### **Article 21**

A detective shall be allowed to announce photographs of missing persons and objects and to offer rewards for obtaining data, information and evidences.

## **IV. SUPERVISION, REGISTERS AND DATA PROTECTION**

### **1. Supervision**

#### **Article 22**

The supervision of the implementation of this Law shall be carried out by the Ministry.

#### **Article 23**

Authorised police officers of the Ministry while supervising the implementation of this Law, shall, in addition to authorizations to undertake actions specified in the law governing inspections, have the right and obligation to check the manner of keeping and carrying firearms and certificates on psychophysical abilities and capacities and qualifications of detectives to handle weapons, as well as to conduct other actions, if necessary, by which direct and unannounced insight into performance of detective work is done.

#### **Article 24**

Authorised police officers of the Ministry shall, in addition to authorisations to enforce measures specified in the law governing inspections, have the right and obligation to temporarily prohibit operations of a legal entity for detective activities and/or to an entrepreneur for detective activities and to temporarily prohibit detective work to a detective is activities and or work are carried out or performed:

- 1) Without a licence or authorisations;
- 2) Without a concluded contract;
- 3) In unqualified and unprofessional way which may cause damages or dangers for a client, a detective or a third party;
- 4) Opposite to the order to carry out activities and/or work in compliance with this Law.

In a decision, an authorised police officers of the Ministry shall instruct a measure ensuring that a legal entity for detective activities, an entrepreneur for detective activities or a detective eliminate irregularities in carrying out detective activities and performing detective work and/or comply their work with this Law with a deadline for the implementation of the measure for elimination of irregularities not exceeding 60 days.

#### **Article 25**

Against the decision referred to in the Article 24 of this Law, it shall be possible to lodge a complaint to the Minister.

### **2. Professional Advice for Promoting Detective Activities**

#### **Article 26**

In compliance with regulations governing public administration and in order to monitor the field of detective activities, promote the execution of works in this area in line with new standards and for the purpose of achieving cooperation with associations of legal entities and entrepreneurs for detective activities and detectives, the Minister shall pass a decision to establish a special working group – Expert Council for the Promotion of Detective Activities.



Among their membership, registered associations of legal entities and entrepreneurs for detective activities and detectives shall propose to the Minister a candidate for the Expert Council for the Promotion of Detective Activities.

### **3. Register**

#### **Article 27**

The Ministry shall maintain the following Registers:

- 1) On issued licences for carrying out detective activities - legal entities and entrepreneurs dealing with these activities;
- 2) On issued licences for carrying out detective activities – individuals dealing with these activities;
- 3) On conducted professional training and qualifying, as well as of licence exams for detectives;
- 4) On issued detective ID cards;
- 5) On permits issued to detectives for carrying weapons.

Registers referred to in the paragraph 1 of this Article shall be maintained as electronic databases and they shall be kept permanently.

Details about the contents of data to be registered, the contents and the appearance of registers and the way in which they are maintained shall be prescribed by the Minister.

#### **Article 28**

Legal entities for detective activities and/or entrepreneurs for detective activities shall maintain the following registers:

- 1) On employed detectives;
- 2) On contracts concluded with clients;
- 3) On persons and/or clients for whom detective work is carried out;
- 4) On applied authorisations to use firearms and physical force by employed detectives;
- 5) On personal data files.

Registers referred to in the paragraph 1 of this Article shall be kept permanently.

#### **Article 29**

Legal entities for detective activities and/or entrepreneurs for detective activities shall not be obliged to create and maintain registers referred to in the Article 28, paragraph 1, item 5) of this Law and/or to process data that are:

- 1) Processed exclusively for family and other personal needs;
- 2) Processed for the purpose of maintaining registers kept by virtue of law;
- 3) For a data file comprised of only publicly available data;
- 4) Related to a person whose identity has not been established and a controller, processor and/or user is not authorised to establish this identity.

Registers referred to in the Article 28, paragraph 1, item 5) of this Law shall be maintained by legal entities for detective activities and/or entrepreneurs for detective activities in compliance with regulations governing personal data protection.

#### **4. Data Protection**

##### **Article 30**

Data collected while performing detective activities and/or work shall be used only for the purposes they have been collected for and shall not be given to third parties or publicly disclosed except otherwise prescribed.

When a data file has been established on the basis of a contract or on the basis of a written approval, in case the contract has been implemented or terminated, and/or written approval withdrawn, a legal entity for detective activities and/or an entrepreneur for detective activities shall be obliged to hand over data to the client or to delete them within 15 days after contract termination, and/or withdrawal of the approval, and other data, not relevant to the client or refused by the client, shall be destroyed within eight days.

##### **Article 31**

A legal entity for detective activities and/or and entrepreneur for detective activities, as well as employed detectives shall be obliged to keep all data they have found out while carrying out their duties as a secret in compliance with the law and other regulations governing data confidentiality except in case otherwise prescribe or agreed.

The obligation referred to in the Paragraph 1 of this Article shall continue after a legal entity for detective activities and an entrepreneur for detective activities have stopped with their activities and/or after a detective has terminated his employment.

##### **Article 32**

A legal entity for detective activities and/or an entrepreneur for detective activities shall be obliged to keep contracts concluded with clients for a period of five years.

#### **V. PENALTY PROVISIONS**

##### **Article 33**

A legal entity for detective activities shall be punished for the offence with a fine amounting from RSD 100,000 to RSD 1,000,000:

- 1) If it carries out activities that are in exclusive competence of state authorities and if it applies operational methods and resources and/or operational-technical resources and methods that competent authorities perform and/or use on the basis of special regulations (Article 2);
- 2) If it carries out detective activities and/or detective work without a licence for detective activities issued by the Ministry (Article 4);
- 3) If it carries out detective activities and ceases to fulfil requirements under which a licence has been issued (Article 5);
- 4) If it processes data which have not been specified as data that can be processed (Article 10, paragraph 1);

5) If it impedes activities which are within the competence of state authorities (Article 10, paragraph 2);

6) If it carries out detective activities or hires a detective to carry out detective activities although it has not concluded a written contract with a client relevant to the engagement for detective activities (Article 12, paragraph 1);

7) If it fails to obtain written authorisation for carrying out agreed services from a client (Article 12, paragraph 2);

8) If it fails to reject the client's request to perform investigation and detective services when these activities are not within its competence, when processing of data which are not allowed for processing is requested and when performing these services is contrary to the interest of a client with whom a contract has already been concluded (Article 12, paragraph 4);

9) If an employed detective fails to provide first aid to the person he has hurt by using weapons or physical force and if he fails to notify medical service about the injury immediately (Article 16, paragraph 3);

10) If it fails to deliver to a competent police department a report about the use of weapons or physical force which has caused serious bodily harm to some person within 12 hours after the event (Article 16, paragraph 6);

11) If it process data of persons who have not willingly accepted that or who have withdrawn their consents (Article 17, paragraphs 1 and 3);

12) If it fails to immediately notify the police or competent public prosecutor about committed crime (Article 18);

13) if, at the request of an authorised police officer in compliance with the decision or law governing criminal proceedings, it fails to allow inspection of collected data in its possession (Article 19, paragraph 1);

14) If it fails to maintain prescribed registers or if it maintains them in the manner which has not been prescribed (Article 28);

15) If data collected while carrying out its work are used for purposes for which they have not been collected or if they are given to third parties or if they are made public (Article 30, paragraph 1);

16) If it, in case of completion or termination of a contract and/or withdrawal of written consent, fails to deliver collected data to a client or if fails to delete them within 15 days after contract termination and/or if it fails to destroy collected data which the client has refused to take over (Article 30, paragraph 2);

17) If, while carrying out detective activities and after their termination, it fails to keep all confidential data as a secret in compliance with the law and other regulations governing data confidentiality (Article 31);

18) If it fails to keep a register of contracts concluded with clients (Article 32).

For actions referred to in the paragraph 1, items 1–3 of this Article, in addition to monetary penalties, it shall also be possible to impose protective measure prohibiting carrying out certain activities in the duration from six months to three years to a legal entity for detective activities.

For actions referred to in the paragraph 1 of this Article, a responsible person in a legal entity for detective activities shall also be punished for offence with a fine amounting from RSD 5,000 to RSD 50,000 and it shall also be possible to impose protective measure prohibiting certain activities and/or carrying out certain work in the duration from three months to one year.

#### **Article 34**

A legal entity for detective activities shall be punished for the offence with a fine amounting from RSD 100,000 to RSD 500,000:

1) If it fails to provide corresponding business premises secured from theft and unauthorized access and/or if it fails to provide a strongbox or a safe deposit box in compliance with regulations on data confidentiality (Article 8, paragraphs 1 and 2);

2) If it fails to take an ID card from a detective whose employment is terminated and/or if it fails to deliver the ID card to the Ministry within the period of five days after it has been taken (Article 13, paragraph 3).

#### **Article 35**

An entrepreneur for detective activities shall be punished for offence with a fine amounting from RSD 50,000 to RSD 500,000 for actions referred to in the Article 33, paragraph 1 of this Law.

An Entrepreneur for detective activities shall be punished with a fine amounting from RSD 50,000 to RSD 250,000 for actions referred to in the Article 34, paragraph 1, item 1) of this Law and if he fails to return the ID card to the Ministry within the period of five days after deletion from the register of competent authorities (Article 13, paragraph 3), as well as if he employs more than one detective.

An independent detective who performs detective activities alone as an entrepreneur shall be punished for offence with a fine amounting RSD 5,000 to RSD 50,000 for actions referred to in the Article 33, paragraph 1 and in the Article 34, paragraph 1 of this Law and it shall also be possible to impose protective measures prohibiting work and/or activities in the duration from six months to three years.

#### **Article 36**

A detective shall be punished for offence with a fine amounting from RSD 5,000 to RSD 50,000 for actions referred to in the Article 33, paragraph 1, items 1–5, 7, 8 and 13 of this Law, if upon termination of employment he fails to return the ID card and/or if within the period of five days the ID card is not sent to the Ministry (Article 13, paragraph 3), as well as if he fails to show his detective ID card and authorisations for performing the work at request of a person from whom he is collecting data (Article 17, paragraph 2).

For offences referred to in the Article 33, paragraph 1, items 1, 2, 4, 5, 7, 8 and 13 of this Law, and/or for actions referred to in the paragraph 1 of this Article which have caused serious consequences, it shall be possible to punish a detective with an imprisonment of up to 30 days.

### **VI. FINAL AND TRANSITIONAL PROVISIONS**

#### **Article 37**

Regulations for the implementation of this Law shall be passed within the period of six months after this Law has come into force.

#### **Article 38**

Legal entities and entrepreneurs for detective activities carrying out detective activities as at the day this Law has come into force shall comply their operations with the provisions of this Law within the period of one year after this Law has come into force.

#### **Article 39**

Persons who perform detective work as at the day this Law has come into force shall be allowed to continue with their work however, they shall be obliged to fulfil requirements prescribed by this Law for this type of work within the period of one year after this Law has come into force.

Notwithstanding the paragraph 1 of this Article, persons who have at least five years of experience in detective activities as at the day this Law has come into force shall not be obliged to fulfil requirements referred to in the Article 6, paragraph 1, item 5) of this Law.

#### **Article 40**

Legal entities for detective activities and/or entrepreneurs for detective activities who hold automatic and semi-automatic weapons and ammunition as at the day this Law has come into force shall be allowed to sell these weapons and ammunition directly or through a company licensed for the sale of weapons and within the period of one year after this Law has come into force.

After the expiry of the term referred to in the paragraph 1 of this Article, weapons that have not been sold shall become the property of the Republic of Serbia.

#### **Article 41**

This Law shall come into force on the eight day of its publication in "The Official Gazette of the Republic of Serbia".