

## **(“Official Gazette” of Bosnia and Herzegovina, 50/04)**

Pursuant to Article IV 4 a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina at the session of the House of Representatives held on 12<sup>th</sup> October 2004 and at the session of the House of Peoples held on 21<sup>st</sup> October 2004, has adopted the

# **LAW ON THE STATE BORDER SERVICE**

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **Article 1**

##### **Scope of the Law**

- (1) This Law regulates the competence, organization and management of the State Border Service of Bosnia and Herzegovina (hereinafter: SBS) as a police body of Bosnia and Herzegovina (hereinafter: Bosnia and Herzegovina), as well as other issues relevant to the functioning of the SBS.
- (2) For all other issues relevant to the functioning of the SBS as a police body, such as police powers, working relations, education and advanced training of police officials within the SBS, to the extent not prescribed by this Law, the Law on Police Officials of Bosnia and Herzegovina shall apply.
- (3) For all issues pertaining to the organisation and management and other issues relevant to the functioning of the SBS as an administrative organization, such as enactment of the Book of Rules on Internal Organization and other by-laws, administrative supervision, relations between the institutions of Bosnia and Herzegovina and relations of administrative organizations towards legal and natural persons, to the extent not prescribed by this Law, the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina and the Law on Administration of Bosnia and Herzegovina shall apply.

#### **Article 2**

##### **Definition of SBS**

- (1) The SBS is an administrative organization within the Ministry of Security of Bosnia and Herzegovina (hereinafter: the Ministry) with operational autonomy, established for the purpose of performing police tasks related to the surveillance and control of Bosnia and Herzegovina border crossing (hereinafter: state border) and other functions prescribed by law.
- (2) The SBS shall act exclusively on professional grounds and shall not represent, protect or undermine the interests of any political party, registered organization or association or any constituent or other people in Bosnia and Herzegovina.

#### **Article 3**

##### **Seat, Budget and Seals of SBS**

- (1) The headquarters of the SBS shall be in Sarajevo.
- (2) The SBS shall be financed from the “Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina”.
- (3) The SBS shall have a seal.

**Article 4**  
**Working Relations within SBS**

- (1) The staff of the SBS shall consist of police officials, civil servants and other employees in accordance with the Book of Rules on Internal Organization.
- (2) Police officials are authorized officials whose working relations are regulated by the Law on Police Officials of Bosnia and Herzegovina.
- (3) The working relations of civil servants working within the SBS are regulated by the Law on Civil Service in the Institutions of Bosnia and Herzegovina.
- (4) The working relations of other employees within the SBS are regulated by the Law on Labour in Bosnia and Herzegovina Institutions.
- (5) The positions of police officials and civil servants, and other employees, shall be defined by the Book of Rules on Internal Organization.

**Article 5**  
**Police Powers**

Police officials employed within the SBS shall apply police powers in accordance with the Law on Police Officials of Bosnia and Herzegovina and shall act as authorized officials in accordance with the Criminal Procedure Codes in Bosnia and Herzegovina (hereinafter: Criminal Procedure Code).

**Article 6**  
**Ethnic Representation**

The structure of police officials, civil servants and other employees within the SBS shall generally reflect the ethnic structure of the population of Bosnia and Herzegovina according to the 1991 census in accordance with the following criteria:

1. The structure of the Headquarters shall reflect the ethnic structure of the population of Bosnia and Herzegovina as a whole.
2. Structure of field offices and units should reflect national structure of population within their territorial jurisdiction.
3. In the structure of field offices and units the representation of any of the constituent peoples of Bosnia and Herzegovina shall in no event be more than 2/3 or less than 1/10 of the total SBS staff in these fields and units. This provision does not apply to the representation of others, who shall, in all cases, be entitled to representation in accordance with the census of 1991 and the above criteria.
4. All SBS units shall have fully mixed ethnic structure and all staff members may perform their duties at any spot along the border.

**CHAPTER II**

**COMPETENCE AND ACTIVITIES OF THE SBS**

**Article 7**  
**Competence of the SBS**

The activities within the SBS area of competence are:

1. Enforcement of the Law on Surveillance and Control of the Crossing of State Border as

- prescribed therein;
2. Enforcement of the Law on Movement and Stay of Aliens and Asylum as prescribed therein;
  3. Preventing, detecting and investigating criminal offences prescribed by the Criminal Codes of Bosnia and Herzegovina when:
    - a) such criminal offences are directed against the security of the state border or against the execution of activities and tasks falling within the competence of the SBS; or
    - b) such criminal offences must be prosecuted pursuant to the provisions on the abuse of official documents serving as proof of identity, passport and obligation to possess visa , as well as provisions on movement and stay of aliens and asylum, if committed while crossing the border or are directly related to the crossing of the state border; or
    - c) such criminal offences involve transportation of goods across the state border , the trade of which is not allowed, if there is no official approval for the goods, or in case of the violation of a current ban, provided the SBS has been assigned the duty to supervise such an approval or ban on the basis of another regulation or an administrative agreement with the authority responsible for such prosecution.
  4. Preventing, detecting and investigating other criminal offences upon the request of the competent authority;
  5. Preventing, detecting and investigating:
    - a) minor offences prescribed by the Law on Surveillance and Control of the Crossing of State Border of Bosnia and Herzegovina, the Law on Movement and Stay of Aliens and Asylum and other laws; or
    - b) other minor offences upon the request of the competent authority.
  6. Providing police support to organisational units within the Ministry of Security in the implementation of the Law on Movement and Stay of Aliens and other regulations in force in this field.
  7. Undertaking measures of protection of the civil air traffic and measures of security of the premises of the international airports in Bosnia and Herzegovina;
  8. Securing its organisational units against danger;
  9. Upon their request, provide judicial bodies and other institutions with expert opinion with respect to the validity of documents used or intended to be used for crossing the border. Such documents shall include travel documents, personal identification documents and all other documents related to the movement of persons, vehicles and goods across the state border.
  10. Carrying out other activities prescribed by the law and other regulations.

#### **Article 8**

#### **Areas of Responsibilities of the SBS**

- (1) While carrying out the responsibilities prescribed in item 1 of Article 7 of this Law, the SBS shall have authority to act within a zone extending to ten (10) kilometres from the state border.
- (2) The performance of the SBS activities referred to in Item 1 of Article 7 of this Law may extend beyond the zone prescribed in Paragraph 1 of this Article if such activities are carried out aboard trains, aircrafts, and vessels.
- (3) The SBS is authorised to carry out the activities referred to in Items 2, 3, 4, 5, 6 and 7 of Article 7 of this Law within the whole territory of Bosnia and Herzegovina.

#### **Article 9**

#### **Procedure upon criminal offences and minor offences falling within the competence of SBS and other bodies**

- (1) With respect to criminal and minor offences, which are not referred to in Items 3, 4 and 5 of Article 7 of this Law, the SBS shall inform the competent police bodies and law enforcement

agencies in Bosnia and Herzegovina about information obtained in the course of performing its duties. Any information and material related to a criminal offence or minor offence, including the information regarding measures and actions taken in the aim of prevention of perpetration of offences and omission to act or in the aim of locating and capturing the perpetrators of such offences, shall be handed over to the competent prosecution authority without delay.

- (2) Besides undertaking of measures referred to in Paragraph 1 of this Article, the SBS shall be obliged to take any measures, which must be undertaken without delay in order to prevent concealing of and tampering with information and materials related to criminal offences and minor offences.
- (3) Provisions of this Law shall not prevent other police bodies and law enforcement agencies from exercising their activities within the area of competence defined by the provisions under Article 9 of this Law.
- (4) In case of criminal offences and minor offences referred to in items 3, 4 and 5 of Article 7 of this Law the police bodies and law enforcement agencies in Bosnia and Herzegovina shall inform SBS on the information obtained in the course of performing their duties. Any information and material related to suspected criminal offence and minor offence, including information regarding measures and actions taken with the objective to prevent perpetration of offences and omission to act or to locate and capture the perpetrators of such offences, shall be handed over to the competent prosecution authority without delay.

### **III – ORGANIZATION AND MANAGEMENT**

#### **Article 10 Structure**

- (1) The SBS shall be structured in order to ensure coordination of all activities at central, regional and local levels so as to provide highly specialised services required for the exercise of tasks falling within its competence as well as to ensure a two-way information exchange between central and local levels of the organizational units.
- (2) The SBS shall be composed of the following organisational units:
  1. Headquarters
  2. Field Offices
  3. Units
  4. Central Investigation Office
  5. Specialized units
  6. Training Centre
  7. Other organizational units as defined in the Book of Rules on Internal Organisation.
- (3) The Headquarters shall consist of the Department for Operations, the Department for Administration and the Department for Internal Control.
- (4) Specialized units referred to in Paragraph 2, item 5 of this Article are the Observation and Surveillance Unit, the Mobile Unit for Support and Control..
- (5) The structure of the SBS shall be further defined in the Book of Rules on Internal Organization of the SBS in accordance with this Law.

#### **Article 11 Director**

- (1) The SBS shall be managed by the Director of the SBS.
- (2) The Director shall have one deputy (hereinafter: Deputy Director) and one Assistant Director for Organization and Operations (hereinafter: Assistant Director).
- (3) The Director shall have the rank of Chief Inspector General.
- (4) The Director of the SBS shall be responsible for his/her work and the work of the SBS to the

Minister of Security and the Council of Ministers.

### **Article 12 Deputy Director**

- (1) The Deputy Director shall replace the Director during his/her absence and shall perform tasks that are delegated to him/her by the Director.
- (2) If the Director is not able to execute his/her duties and responsibilities, the Deputy Director shall execute such duties until the Director is able to resume duties or until new Director is appointed. In case the Director is not able to resume his/her duties, the Council of Minister shall appoint new Director in accordance with the Law on Police Officials.
- (3) The Deputy Director shall have the rank of Inspector General.
- (4) The Deputy Director shall be responsible to the Director for his/her work.
- (5) The Book of Rules on Internal Organization of the SBS Bosnia and Herzegovina shall further define the duties and responsibilities of the Deputy Director.

### **Article 13 Assistant Director**

- (1) The Assistant Director shall manage the Headquarters and shall be responsible to the Director for his/her work.
- (2) The Assistant Director shall have the rank of Inspector General.
- (3) The Book of Rules on Internal Organization of the SBS Bosnia and Herzegovina shall further define the duties and responsibilities of the Assistant Director.

### **Article 14 Appointment and Dismissal of Director, Deputy Director and Assistant Director**

- (1) The Director and the Deputy Director shall be appointed and dismissed by the Council of Ministers in accordance with the Law on Police Officials of Bosnia and Herzegovina.
- (2) The Assistant Director shall be appointed by the Council of Ministers in accordance with the Law on Ministerial Appointments, Council of Ministers' Appointments and Other Appointments of Bosnia and Herzegovina.
- (3) The Assistant Director shall be dismissed by the Council of Ministers in accordance with the conditions for dismissal of directors and deputy directors prescribed by the Law on Police Officials of Bosnia and Herzegovina..
- (4) The Director, the Deputy Director and the Assistant Director shall be appointed for the period of four years and may be re-appointed for a second consecutive term.

### **Article 15 Special Conditions for Appointment of Assistant Director**

Candidates applying for the position of Assistant Director shall have level VII of education and hold the rank of Chief Inspector.

### **Article 16 Expiration of term of office of Director, Deputy Director and Assistant Director**

- (1) Upon the termination of the term of office of Directors and Deputy Directors, the assignment or working relations of police officials occupying such positions shall be determined in accordance with the Law on Police Officials of Bosnia and Herzegovina.

- (2) Upon the termination of the term of office of the Assistant Director, the police official who had occupied such a position shall be assigned to a position, which requires the rank of Chief Inspector.

## **Article 17**

### **Duties and Responsibilities of the Director**

- (1) The Director shall:
- a) represent the SBS;
  - b) create annual working plan according to the directives given by the Council of Ministers, as well as the annual budget for the SBS and propose them for adoption to the Council of Ministers through the Ministry;
  - c) manage and direct tasks that come under the competence of the SBS;
  - d) participate in elaboration of the national action plan that defines measures to be taken for combating illegal migration as well as criminal and minor offences that come under the competence of the SBS;
  - e) define operational strategies for effective border management;
  - f) ensure proper implementation of the guidelines and directives of the Prosecutor concerning the activities of police officials in relation to criminal proceedings;
  - g) ensure co-operation with law enforcement agencies and other appropriate bodies in Bosnia and Herzegovina;
  - h) ensure co-operation with law enforcement agencies and other competent agencies of foreign states and ensure the implementation of other international agreements in the area of surveillance and control of crossing of the state border as well as other international instruments pertaining to matters that come under the competence of the SBS;
  - i) propose to the competent authority the initiation of negotiations related to the conclusion of international agreements concerning border related matters, including readmission agreements;
  - j) conduct permanent analysis to determine rational allocation of personnel and technical resources;
  - k) ensure the implementation of and compliance with established standards of professional skills and training for personnel;
  - l) ensure that the SBS efficaciously implements provisions of the Law on Movement and Stay of Aliens and Asylum, and that all SBS staff are adequately trained in the application of the said law.
- (2) In addition to the duties and responsibilities referred to in Paragraph 1 of this Article, the Director shall also carry out other tasks, such as:
- a) Proposing to the Council of Ministers the Book of Rules on Internal Organisation, including the total number of staff and staffing criteria, other books of rules and other regulations envisaged by law, in accordance with the Law on Ministries and other Bodies of Bosnia and Herzegovina;
  - b) Issuance of regulations in accordance with the Law on Police Officials of Bosnia and Herzegovina and other laws;
  - c) Appointing heads of organizational units of the SBS, with the exception of the Assistant Director,
  - d) Assigning duties to the Assistant Director and heads of organizational units in accordance with the law;
  - e) Issuing decisions on employment, deployment and termination of employment of the employees within the SBS, in accordance with the Law on Police Officials of Bosnia and Herzegovina and other laws and regulations;
  - f) In agreement with the Minister, carrying out the procurement of weapons, ammunition, equipment and other material means for the needs of the SBS;

- g) In agreement with the Minister, developing and implementing programs for education and training of the employees within the SBS;
  - h) Submitting annual report on activities and the situation in the field that come under the competence of the SBS to the Minister, who shall submit it to the Council of Ministers, and submitting special reports as circumstances require or upon the request of the Minister
  - i) Submitting reports to the Parliamentary Assembly of Bosnia and Herzegovina, the Council of Ministers and the Presidency of Bosnia and Herzegovina upon their request;
  - j) Performing other duties as prescribed by law or other regulations.
- (3) The Director shall be responsible for the lawful work of the SBS and for the lawful expenditure of funds allocated to the SBS from the “Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina”.
- (4) The Director may delegate some of his/her tasks prescribed by this Law and other laws to the Deputy Director, Assistant Director and heads of organizational units.

#### **IV- COOPERATION**

##### **Article 18**

##### **Rendering Assistance**

- (1) Administrative bodies and other bodies, services and other institutions in Bosnia and Herzegovina, Entity and Cantonal Ministries of Interior, customs and tax authorities, financial police, Interpol liaison bodies, competent bodies of the Brcko District and other appropriate bodies are obligated to cooperate with the SBS and upon its request, shall assist the SBS in performing the tasks that come under its competence and shall coordinate activities within the scope of their competencies, in accordance with the law and other regulations on protection of sources, methods and other non-public information.
- (2) The SBS shall cooperate and render assistance to bodies referred to in Paragraph 1 of this Article upon their request.
- (3) The manner of rendering assistance and all other matters related to the assistance and cooperation referred to in Paragraphs 1 and 2 of this Article shall be regulated by mutual agreements or by other legal acts to the degree not defined by law.

##### **Article 19**

##### **Tasks in Case of State of Emergency**

- (1) In the event that a serious danger to public security or order, as established by the competent authority, or a natural disaster, causes serious operational difficulties for SBS, the SBS can request support from the appropriate competent institutions, police bodies and law enforcement agencies in Bosnia and Herzegovina, if the said difficulties are directly related to the effective execution of its duties.
- (2) Upon the proposal of the Director, the decision on requesting the support referred to in Paragraph 1 of this Article shall be taken by the Ministry in agreement with the competent law enforcement agencies of Bosnia and Herzegovina, Entities and Brcko District. The competent institutions, police bodies and agencies involved in support shall be subordinated to the SBS and measures undertaken by them shall represent the measures undertaken by the SBS. Additional costs incurred by such activities shall be borne by the Budget of the Institutions of Bosnia and Herzegovina and International Obligations of Bosnia and Herzegovina” based on a special decision of the Council of Ministers.
- (3) The provisions of this Article shall also apply to the assistance provided by the SBS to other law enforcement agencies in Bosnia and Herzegovina.

##### **Article 20**

## **International Cooperation**

- (1) The SBS shall cooperate with foreign law enforcement agencies, other appropriate foreign bodies and international organisations, for the purpose of execution of duties that come under its competence according to this Law. Such a co-operation may include the exchange of data and joint execution of activities that come under the competence of the SBS.
- (2) The SBS may provide foreign law enforcement agencies and other appropriate foreign bodies with data on citizens of Bosnia and Herzegovina based on the received information that the citizen represents danger to the security of Bosnia and Herzegovina, the receiving State or broader danger to regional or global security.
- (3) Notwithstanding Paragraph 2 of this Article, the SBS shall not provide data on citizens of Bosnia and Herzegovina unless it has reasonable assurances that the recipient will process the data with the same level of protection as provided in Bosnia and Herzegovina.
- (4) If data relates to an ongoing criminal proceeding in Bosnia and Herzegovina, the exchange of data referred to in this Article shall be carried out in accordance with the Criminal Procedure Code.
- (5) In criminal matters, the cooperation with foreign law enforcement agencies shall be conducted through the Office for Cooperation with Interpol.
- (6) International cooperation related to matters falling within the responsibilities of the SBS shall be determined through written bilateral or multilateral agreements or protocols and may cover all aspects of cross border cooperation, including mutual risk analysis, exchange of experience, cooperation in training and cooperation on investigation.
- (7) Police officials of the SBS may act outside the territory of Bosnia and Herzegovina if authorised to do so by bilateral or multilateral international agreements.
- (8) The SBS may participate in international meetings and appoint Liaison Officers for international cooperation.

## **V – TRANSITIONAL AND FINAL PROVISIONS**

### **Article 21**

#### **Temporary Headquarters of the SBS**

Until the Headquarters of the SBS is provided for in Sarajevo, the SBS Headquarters may be temporarily located at another location.

### **Article 22**

#### **Appointments**

- (2) The procedure of appointment of the Director, Deputy Director, and Assistant Director shall commence upon the day of entry into force of this Law, and shall be finalised no later than six (6) months from the day of entry into force of this Law.
- (3) The appointments referred to in Paragraph 1 of this Article shall become effective on the first day following the expiration of the period of six (6) months as of the day of the entry into force of this Law.
- (4) BY way of derogation from Article 14, paragraph 3 of this Law for the first appointment of assistant a candidate for that post does not need to fulfill the condition of three years of working experience as chief inspector.
- (5) The person who is holding the position of the Director and Chief of the SBS at the time of the entry into force of this Law, shall continue to exercise his/her duties in that position until the appointment of new Director.
- (6) The persons who are holding the positions of Deputy Directors, at the time of the entry into force of this Law, shall continue to exercise their duties in those positions until the appointment of new Deputy Director.



- (7) The person who is holding the position of Chief of Staff of the SBS at time of the entry into force of this Law, shall continue to exercise his/her duties in that position until the appointment of new Assistant Director.
- (8) Until the expiry of the time-period referred to in paragraph 2 of this Article, the persons referred to in Paragraphs 3, 4, and 5 shall carry out their tasks and duties pursuant to this Law.

**Article 23**  
**Applicable Regulations**

- (1) The Rulebook on Internal Organisation of the SBS shall be issued within 30 days as of the day of entry into force of this Law.
- (2) Until the adoption of appropriate regulations, the SBS shall apply regulations issued pursuant to the law referred to in Article 24 of this Law, provided that such regulations are not contrary to this Law or the Law on Police Officials of Bosnia and Herzegovina.

**Article 24**  
**Cessation of validity of the previous law**

On the day of entry into force of this Law, the Law on State Border Service of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, No:19/01) as well as regulations or decisions passed pursuant to said law shall cease to be valid.

**Article 25**  
**Entry into Force**

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

PA Bosnia and Herzegovina No 111/04  
21<sup>st</sup> October 2004  
Sarajevo

Chairman  
House of Representatives  
BH Parliamentary Assembly  
Martin Raguz

Chairman  
House of People  
BH Parliamentary Assembly  
Goran Milojevic