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Federal Act on the Intelligence Service (Intelligence Service Act, IntelSA)

of 25 September 2015 (Status as of 1 July 2021)

The Federal Assembly of the Swiss Confederation,
on the basis of Articles 54 paragraph 1, 123 paragraph 1 and 173 paragraph 2 of the Federal Constitution^{1,2}
and having considered the Federal Council Dispatch dated 19 February 2014³,
decrees:

Chapter 1 General Provisions and Principles governing Information Gathering

Art. 1 Subject matter

This Act regulates:

- a. the activities of the Federal Intelligence Service (FIS);
- b. cooperation between the FIS and other federal authorities, the cantons, foreign countries and private individuals;
- c. political governance of the FIS and the control and supervision of intelligence activities.

Art. 2 Aim

This Act serves to protect important national interests; its aim is

- a. to contribute towards safeguarding Switzerland's democratic and constitutional principles and protecting the freedoms of its population;
- b. to increase the security of the Swiss population and of Swiss citizens abroad;

AS 2017 4095

¹ SR 101

² Amended by Annex No II 1 of the FA of 25 Sept. 2020 on the Approval and Implementation of the Council of Europe Convention on the Prevention of Terrorism and its Additional Protocol and the Strengthening of Criminal Justice Instruments for combating Terrorism and Organised Crime, in force since 1 July 2021 (AS 2021 360; BBl 2018 6427).

³ BBl 2014 2105

- c. to support Switzerland's capacity to act;
- d. to contribute towards safeguarding international security interests.

Art. 3 Safeguarding further important national interests

In the event of a serious and immediate threat, the Federal Council may deploy the FIS not only to protect the national interests mentioned in Article 2 but also:

- a. to protect basic constitutional order in Switzerland;
- b. to support Swiss foreign policy;
- c. to protect Switzerland as a location for employment, business and finance.

Art. 4 Authorities and persons subject to obligations

This Act applies to the following authorities and persons:

- a. federal and cantonal authorities that are given the task of carrying out intelligence activities;
- b. federal and cantonal authorities and public and private organisations, persons and entities that hold information relevant to intelligence matters;
- c. private individuals who are required to pass on information relevant to intelligence matters in terms of this Act.

Art. 5 Principles governing information gathering

¹ In order to carry out its tasks, the FIS shall gather information from sources that are publicly and non-publicly accessible.

² For this purpose it shall use information gathering measures which do and do not require authorisation.

³ In each case, it shall choose the information gathering measure that:

- a. is most suitable and necessary for achieving a specific information gathering objective; and
- b. causes the least interference with the fundamental rights of the persons concerned.

⁴ It may gather personal data without this coming to the attention of the persons concerned.

⁵ It may not gather or process any information relating to political activities or the exercise of freedom of speech, assembly or association in Switzerland.

⁶ It may by way of exception gather information in accordance with paragraph 5 about an organisation or person and record that information in relation to a person if there are specific indications that the person is exercising their rights in order to prepare for or carry out terrorist, espionage or violent-extremist activities.

⁷ It shall delete data recorded in relation to a person once participation in the activities mentioned paragraph 6 can be excluded, but one year at the latest after the information has been recorded if no such activities have been proven up to that time.

⁸ It may also gather and process information in accordance with paragraph 5 about organisations and groups on the watch list in accordance with Article 72 or their members if the threats posed by these organisations and groups can be assessed thereby.

Chapter 2 FIS Tasks and Cooperation

Section 1

Tasks, Protection and Security Measures, and Weapons

Art. 6 Tasks of the FIS

¹ The FIS shall gather and process information for the following purposes:

- a. the early recognition and prevention of threats to internal or external security from:
 1. terrorism,
 2. espionage,
 3. the proliferation of nuclear, biological or chemical weapons, including their delivery systems, and all civilian and military goods and technologies required to manufacture such weapons (ABC proliferation) or the illegal trade in radioactive substances, war material and other armaments,
 4. attacks on information, communication, energy, transport and other infrastructures that are essential for the proper functioning of society, the economy and the state (critical infrastructures),
 5. violent extremism;
- b. to identify, observe and assess events outside Switzerland that are of security-policy significance;
- c. to safeguard Switzerland's capacity to act;
- d. to safeguard other important national interests in accordance with Article 3 where the Federal Council has issued a specific mandate to do so.

² The FIS shall assess the threat situation and inform the federal agencies and cantonal executive authorities concerned regularly about any threats and about the measures taken and planned in terms of this Act. If required, it shall alert the state agencies responsible.

³ It shall, while protecting its sources, inform other federal and cantonal agencies about events and intelligence that are relevant to the statutory tasks of these agencies in safeguarding internal or external security.

⁴ It shall cultivate intelligence relations between Switzerland and foreign agencies.

⁵ It is responsible for providing the intelligence early warning in order to protect critical infrastructures.

⁶ It runs programmes to provide information on and raise awareness of threats to internal or external security.

⁷ It protects its employees, its facilities, its sources and the data that it processes.

Art. 7 Protective and security measures

¹ The FIS shall take measures to guarantee the protection, safety and security of its employees, facilities and the data that it processes. To this end it may:

- a. carry out on its premises bag and personal checks on:
 1. FIS employees,
 2. persons working temporarily for the FIS,
 3. employees of companies that provide the FIS with services on its premises;
- b. carry out checks of rooms and spaces in FIS facilities to verify whether the regulations on protecting classified information are being complied with;
- c. monitor archive rooms, strong rooms and storerooms and the access zones to the FIS premises using video transmission and recording devices;
- d. operate telecommunications jammers in accordance with Article 34 paragraph 1^{ter} of the Telecommunications Act of 30 April 1997⁴ on premises that it uses.

² The FIS shall operate a secure computer network for its information systems that must in particular be protected against access by unauthorised persons.

Art. 8 Weapons

¹ FIS employees may be issued with weapons for operations in Switzerland if they are exposed to special dangers in the course of their service duties.

² Armed employees may only use their weapons for self-defence or in emergencies and only in a manner appropriate to the circumstances.

³ The Federal Council shall determine the categories of employee that may carry weapons and the training that they require.

Section 2 Cooperation

Art. 9 Cantonal executive authorities

¹ Each canton shall designate an authority to work with the FIS in implementing this Act (the cantonal executive authority). It shall ensure that this authority is able to carry out FIS assignments immediately.

⁴ SR 784.10

² The FIS shall issue assignments to the cantonal executive authorities in writing; in cases of urgency it may issue assignments verbally and confirm them retrospectively in writing.

Art. 10 Informing the cantons

¹ The Federal Department of Defence, Civil Protection and Sport (DDPS) shall inform the inter-cantonal conferences of governments regularly and in the event of incidents about its assessment of the threat situation.

² The FIS shall inform the cantonal executive authorities about events that affect the tasks that they carry out.

Art. 11 Cooperation with the Armed Forces

¹ The FIS shall notify the responsible agencies in the Armed Forces Intelligence Service and the Military Security Service about events that affect the tasks that they carry out.

² It may work with the responsible agencies of the Armed Forces in relation to international military contacts, request them for information and issue them with assignments related to international cooperation.

³ The Federal Council shall regulate:

- a. the cooperation and exchange of information between the FIS and the responsible agencies of the Armed Forces Intelligence Service;
- b. the division of tasks between the FIS and the Military Security Service during peace support or civil support operations or active service.

Art. 12 Cooperation with other countries

¹ The FIS may work with foreign intelligence services and security services in terms of Article 70 paragraph 1 letter f in order to implement this Act, in that it:

- a. receives or passes on useful information;
- b. holds joint technical discussions and conferences;
- c. carries out joint activities to gather and evaluate information and to assess the threat situation;
- d. procures and passes on information to the requesting state in order to assess whether a person may work on classified foreign projects related to internal or external security or have access to classified foreign information, materials or facilities;
- e. participates in terms of Article 70 paragraph 3 in international automated information systems.

² It may in consultation with the Federal Department of Foreign Affairs (FDFA) post employees to Swiss representations abroad in order to promote international contacts. These employees shall work directly with the responsible authorities of the host state and third countries in order to implement this Act.