

Disputed articles of the Draft Law on Internal Affairs

NB: *Due to the urgency of the matter, we submit unofficial translation of both SHARE Foundation's critical comments on the Draft Law on Internal Affairs, and of the Draft Law's disputed articles as presented by the relevant Serbian Ministry to the public debate. The language of the original Draft Law is inconsistent, lacking proper definitions, and often mixing key terms "face" ("lik") and "person" ("lice").*

Data processing systems

Article 44

When performing police work, the Police uses data processing systems, such as: audio and video surveillance systems, access control system, mobile and radio communications systems, registrophonic system and geographic information system.

The audio and video surveillance systems consist of a set of fixed and mobile cameras, software and hardware solutions with analytical tools, as well as other devices and equipment designed for recording in public places, recording and processing of audio and video recordings and photos of faces, vehicles and events, with information about the location and time of the audio or video recording and photos.

Parts of the audio and video surveillance systems referred to in paragraph 2 of this Article are also used for automatic face detection, which includes processing biometric data of a detected face and bodily characteristics, time and location and participation of a person in an event, automatic vehicle detection, license plate recognition or other markings on the vehicle, and violation detection.

An access control system is a set of connected devices and equipment used to control the access of persons and vehicles to objects and to persons under protection, and to control access to information and communication systems and to mobile communication systems.

The system of mobile and radio communications consists of the national TETRA system and of the systems of mobile eLTE, radio-communications and electronic communications (email, video conferencing, e-platforms, e-classrooms, etc.)

The registrophonic system is a system for recording audio records of conversations in order to document citizens' reports, to prevent false reports and unjustified engagement of the Ministry's resources, and to provide urgent response to reported events.

Geographic information system is a system that processes location data, vector geospatial data, raster and alphanumeric geospatial data in order to visualize objects and events, for

spatial and temporal analysis of events and emergencies, to support and assist in decision making, for distribution of services for entering and updating geospatial data, and of locating services for TETRA devices and other mobile and radio communication devices.

The systems referred to in paragraph 1 of this Article may also be connected to the appropriate systems of other state bodies, bodies of autonomous provinces, local self-government units and legal entities.

Article 68

Verification of the identity of a person is performed by inspecting an ID card or other public document with a photograph, or by using a system for automatic processing of biometric and other data.

Notwithstanding paragraph 1 of this Article, identity verification may be performed on the basis of a statement of the person whose identity has been verified.

Identity verification may also be performed without the knowledge of the person whose identity is being verified, if there are grounds for suspicion that the person is the perpetrator of a criminal offense or misdemeanor, or if it is necessary for the performance of a police task.

Recognition based on biometric facial features

Article 71

An authorized officer may perform identification on the basis of the person's biometric characteristics in order to:

- 1) find the perpetrator of a criminal offense prosecuted ex officio;
- 2) find a person who is reasonably suspected of preparing to commit a criminal offense;
- 3) find the wanted person.

Recognition referred to in paragraph 1 of this Article shall be performed by using a data processing system.

Data processing

Article 72

The authorized officer processes personal data and other data for the purpose of performing police and other tasks.

The data referred to in paragraph 1 of this Article shall be collected by the authorized officer directly from the persons to whom the data relate and from other entities referred to in Article 12, paragraph 2 of this Law, by perceiving and observing and using the data processing system.

Data collection using a data processing system is performed only according to a certain category of persons for a limited duration and in a manner that is necessary to achieve the purpose of processing.

The persons referred to in paragraph 3 of this Article are: persons for whom there are grounds for suspicion that they have committed or intend to commit criminal offenses or misdemeanors, persons wanted and other persons related to the committed criminal offense or misdemeanor recorded by the video surveillance system, as well as persons against whom it is necessary to urgently take certain actions in order to protect the life and health of that person or other persons.

The authorized officer shall keep the data referred to in paragraph 1 of this Article, use them and handle them in accordance with the law.

The processing of personal data while conducting police work is considered to be the processing of data for special purposes.

The special purpose of personal data processing is the prevention, detection and uncovering of criminal offenses, misdemeanors and economic offenses, detection and arrest of perpetrators of criminal offenses, misdemeanors and economic offenses, including prevention and protection from threats to public safety and protection of participants in criminal proceedings and related persons.

Surveillance and recording in public places

Article 156

Using the system of audio and video surveillance in order to perform police and other tasks, the police monitor and record persons, objects, events and phenomena in a public place.

The audio and video surveillance system can also be used to record the actions of authorized officers during the use of police powers in order to control the legality of the actions of authorized officers.

When the police use the audio and video surveillance system referred to in paragraph 1 of this Article, they may process personal data with or without establishing the identity of the person.

The police are obliged to place a notice on the use of the audio and video surveillance system in the public place where they perform surveillance and recording.

If there is no notice in a public place about the use of the audio and video surveillance system, the police are obliged to publicly announce the intention to use the audio and video surveillance system.

In the case of a special evidentiary action of secret surveillance and recording, the police do not post a notice on the use of the audio and video surveillance system in a public place, nor do they publicly announce the intention to record, in accordance with the law regulating criminal proceedings.

Article 157

For surveillance and recording referred to in Article 156 of this Law, the police may access the system of audio and video surveillance of state bodies and organizations, bodies and organizations of the autonomous province and of local self-government units, institutions, public enterprises, legal entities with public authority and other legal entities, persons and organizations, so that they only conduct the surveillance of a public place or, in accordance with their authorizations, also perform recording.

Entities referred to in paragraph 1 of this Article may access the audio and video surveillance system of the Ministry, in accordance with the law.

Article 158

The Minister shall further regulate the technical conditions for construction and access of the Ministry to the system of audio and video surveillance of entities referred to in Article 156 of this Law and access of entities referred to in Article 156 of this Law to the system of audio and video surveillance of the Ministry, and the manner of announcing the intention to record in a public place.