



REPUBLIC OF SERBIA

Ministry of Interior

L A W
ON PROTECTION OF STATE
BORDER

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LAW ON PROTECTION OF STATE BORDER

I. BASIC REGULATIONS

Scope of the law

Article 1

This law regulates the protection of state border, organization, and ways of protection.

Protection of state border in terms of the law is control of crossing the state border (in the following text: border control) and guarding the state border, in order to be secured.

- 1) Secures and monitors protection and immunity of state border;
- 2) prevent and discover criminals and criminal actions
- 3) protection of people's lives, health, and environment;
- 4) Prevention of illegal migration.

The meaning of expressions

Article 2

Certain expressions used in this law shall have the following meaning:

- 1) State border is an imaginary vertical line running along the borderline on the surface of the Earth, which separates the territory of the Republic of Serbia, its land, inner waters, airspace and ground below the surface of the Earth from the territory of neighboring countries. In terms of border control, state border is also the area of border crossings on airports and ports for international transport
- 2) A borderline is a marked or imaginary line along which the state border is on the surface of the Earth.
- 3) A border crossing is a place defined for crossing the border.
- 4) A temporary border crossing is a place defined for temporary crossing the border.
- 5) the area of country border is a marked space on which the control of crossing the state border as well as other types of control are done and regulated by the law, a part of a public road in this area, as well as facilities, installations and equipment necessary for a rational and safe traffic across the state border and administering control
- 6) border security measures represent a unit of measures, actions and powers undertaken along the state border, in-between border crossings, out of working hours in order to prevent unauthorized crossing the state border and the protection of its integrity.

- 7) an integrated border management means regulated cooperation of all services present on broder crossings (intra-service co-operation, intra-agency co-operation and international co-operation), as well as other bodies and institutions aiming to accomplish the state of state border being open for people moving and the trade, but keeping it closed for all criminal and other activities which can lead to the instability in the region;
- 8) border police is an organizational unit of the Ministry of Interior that protects the state border.
- 9) violation of the state border, i.e. a state border incident is every single violation of border for which it is stated that it is not in accordance with the regulations of the Republic of Serbia concerning the protection of state border and with international contracts, and which is being done on the territory of the RS as a consequence of actions done by a body of a person from a foreign country, as well as actions undertaken from the territory of a foreign country by the officials of state or local bodies, or other persons of that country;
- 10) an operator is a body of a person that as an owner or a user who administers an airport, a port, a dock, a railway station, and infrastructure which is a part of named objects.

II. THE BODIES ENTITLED TO PROTECT THE STATE BORDER

Competency

Article 3

State border control and protection of the border is done by the competent Ministry of Interior (in the following text: the Ministry) and other government bodies in accordance with their authority regulated by the law.

An integrated border management

Article 4

The bodies which perform actions from Art. 3 of the law are to act accordingly, cooperate and help each other in performing duties coming out of regulated competence and actions of the bodies, in accordance with certain procedures and principles defined by the Strategy of integrated border management of the Republic of Serbia.

Border police

Article 5

Border police perform a part of jobs and duties for the protection of state border in accordance with competence defined by this law.

The way or performing duties from para. 1 of the Article is defined by the competent Minister of Interior.

Authorities, measures, and duties

Article 6

When performing duties from Art. 5 of the law, a police officer of the state border police force (in the following text: the police officer) administers police powers, as well as measures and actions regulated by the law, and these are:

- 1) checks travel documents and other documents valid for crossing the state border
- 2) confirms the identity of persons and performs control in regulated registers
- 3) if there is a doubt about the identity or validity of a travel or other document regulated for crossing the state border, takes fingerprints and palm prints of a person, as well as other biometrical data.
- 4) checks whether a person fulfills conditions of entering and leaving the Republic of Serbia;
- 5) verifies crossing the border, that is, fills in the travel document or any other document regulated by law for crossing the border with data of entering or leaving, as well as the data of denial to enter the country, data about possession and carrying weapons and ammunition and other relevant data;
- 6) Checks the reason for traveling of a person.
- 7) if not possible doing it in another way, performs inspection and searching of a person;
- 8) keeps a person in the time necessary to perform control actions and secures regular, undisturbed and quick control;
- 9) demands that persons who cross the border show things and objects carrying with them or in a vehicle and performs the inspection;
- 10) performs inner and outer inspection of a vehicle by regulated register, in case there is a doubt that a person crossing the border transports hidden persons or things that are forbidden to carry in or out of the Republic of Serbia; in order to confirm the identity of these persons, and preventing illegal crossing the border and finding things;
- 11) in case of necessary inspection of all parts of a vehicle, performs disassembling of a vehicle;
- 12) Sets up the equipment, uses technical devices, police dogs and physical obstacles in order to prevent illegal border crossing.

Application of authority

Article 7

A police officer can perform only these authorities, measures and actions by which a legally defined aim can be accomplished, while on duty to protect state border.

By administering authorities, measures, and actions, a police officer must not make any damage that could be greater than the aim because of which it has been undertaken.

A police officer is to perform authorities, measures and actions to which he has been entitled to as long as the aim has been achieved, that is up to the moment of ensuring that the aim cannot be accomplished.

Border control done by the customs officers

Article 8

On the Ministry proposal, the Government can decide that on certain border crossings for transport with a neighboring country, border control is to be done by government bodies competent for the customs, if more economical, and if not in contrast with safety measures.

When state border control is done by the customs officers, border police shall give them instructions and help.

Control out of the border crossing

Article 9

Border police can control persons, vehicles and things, for which they are authorized by this law, on public roads and in facilities of importance for border traffic in the place of border crossing and in other places between border crossings, on side-roads near borderline, in order to prevent and discover illegal migration and to suppress over-border crime.

Duties from para. 1 of this Article are performed for security reasons on the basis of police information of competent organizational units of the Ministry or in exchange of data and information other state bodies and competent security organizational units aiming to discover the doers of named criminal actions.

III. CROSSING THE BORDER

Crossing the border on border crossing

Article 10

Crossing the border is every movement of people over the state border.

State border can, as a rule, be crossed only on border crossings with a valid traveling document or another document regulated by law for crossing the border, in time which has been scheduled for traffic on state border and in accordance with the purpose of border crossing.

Crossing the border out of a border crossing

Article 11

State border can be crossed out of a border crossing in case of vis maior or if it is arranged in such a way by a treaty.

In case of vis maior, state border can be crossed any time and any place. Persons who have crossed the border in case of vis maior are obliged to notify border police about that without delay, that is, immediately after the termination of reasons for such a way of crossing the border.

Border permission

Article 12

If there is a justified interest in accordance with a treaty, respectful the permit of a competent body of a neighboring country, on the application of a person or a group, border permission can be issued by border police in accordance with the competent customs, for crossing the border either out of border crossing, or in a border crossing, but out of a regulated way or working hours of border crossing.

Border permission is issued to certain persons with the expiry date of one year.

Border permission shall be withdrawn in case of misuse or termination of reasons for which it has been issued.

Application form for issuing a border permission, the form of border permission, ways and terms of issuing are regulated by the competent Minister of Interior.

Kinds of border crossings

Article 13

Border crossing is a place determined for crossing state border in land, rail, air or water transport, on which border crossing control is done permanently, seasonally, or temporary.

Border crossings can be opened for international or frontier traffic.

Border crossings, time and ways of crossing state border are determined by the Government.

Border crossings with a neighboring country, time and ways of crossing the state border is determined by the Government in accordance with a treaty.

Border crossings for international and regional transport / traffic

Article 14

Border crossing for international transport/ traffic is a place determined for crossing state border for the citizens of the Republic of Serbia and the foreigners.

Border crossing for regional traffic is a place where the citizens of the Republic of Serbia living on a certain territory of the Republic of Serbia can cross state border for a stay in a certain zone of a neighboring country, that is, where the citizens of a neighboring country living on a certain territory of the country can cross state border for a stay in a certain zone of the Republic of Serbia, in accordance with a treaty.

Temporary border crossing

Article 15

Temporary border crossing can be determined by competent Minister of Interior, with the consent of the competent Ministers of finance and foreign affairs and the competent body of a neighboring country, if it is necessary for short-term activities: cultural, scientific, sport, religious, and touring, various agricultural jobs, economy affairs, and other activities determined by a treaty, because of performing practice for preventing natural catastrophes, as well as redirection of traffic over state border.

By a decision from para. 1 of this Article time, ways and other conditions of border crossing are determined.

Temporary border crossing can be open during the period up to three months during one year, and if it is open due to agricultural works, while they are terminated, that is, while there is justified interest.

Area of border crossing

Article 16

An area of border crossing encloses the space necessary for performing border control, together with the facilities needed for free and safe traffic.

The area of border crossing is determined by the decision made by the Ministry, with the consent of competent government bodies performing duties of border control.

On joint locations of border crossings, the area of border crossing with a neighboring country is determined by a treaty.

Organization and installment of border crossing

Article 17

Border crossings should be organized and equipped in accordance with the conditions determined by the Government and in accordance with international standards, so that safe border control can be performed.

The operator of an airport, a port, a dock, or a railway station where there is international traffic is to provide conditions for border control to be done freely in accordance with Law provisions.

The operator of the airport from para.2 of this Article should provide space which shall provide conditions for international flights passengers to be separated from the others, as well as the space for the foreigners who do not meet the conditions for entering the country in accordance with a special law.

The costs of installment, equipment and maintenance of border crossing, are financed from the country budget in a way determined by the Government, with the exception of these that are being maintained by the operator.

Relationship between the operator and bodies in charge with border control, and concerning the use of space and objects for control are determined by a contract.

Marking the area of border crossing

Article 18

Border crossing and its area are marked with determined signs and different signaling system.

Shape, content and general appearance of the signs and other marks from para.1 of this Article are defined by the competent Minister of Interior.

Signs and other marks from para1 of this Article are placed and maintained by a government body competent for commissioning of traffic system on demand of the Ministry.

Exceptionally from para.3 of this Article, signs and other means of signaling on border crossing and its area on airports, in docks, ports and railway stations are installed and maintained by the operator on the request by the Ministry.

Building in the area of border crossing

Article 19

Building, placing facilities, the change of their purpose, as well as setting up the installation, equipment and devices in the area of border crossing must not interfere with performing duties of border control and administering safety measures on state border.

The investor or a project manager shall provide license for works named in para. 1 of this Article from the Ministry.

The license from para.2 of this Article shall not be issued if it leads to interference and disturbance of performing border control and safety measures on state border.

Moving and staying in area of border crossing

Article 20

In area of border crossing it is allowed both moving and staying to persons who are to cross state border, or who have already done it; and the reason for it is because of border control, as well as to those who work on border crossing, or to persons who have permission for it.

Persons who are permitted moving and staying in the area of border crossing are obliged to act upon orders and directions given by police officers.

Permission for moving and staying in area of border crossing

Article 21.

The license for moving and staying in the area of border crossing is issued by the police.

The license for moving and staying for persons who work permanently in the area of border crossing is issued with the expiring date up to two years period which can be prolonged.

Due to performing short-term activity, as well as in the case of need to allow moving and staying in the area of border crossing in a shorter period of time, a temporary license is issued, with expiring date up to 60 days.

The license for moving and staying in the area of border crossing can be issued to other persons who have a justified reason for it.

The form of the license for moving and staying in the area of border crossing and the terms of issuing is determined by the Ministry competent for internal affairs.

An applicant, denial of application, and withdrawal of license

Article 22.

The license is issued on written request by the operator or another employer of a person to whom the license is being issued, that is on request of a captain of a vessel, an aircraft or a train.

The license from Art.21 of this law shall not be issued, or it shall be withdrawn, due to reasons of legal or criminal offense, prevention of spreading a disease, or because of security reasons.

The appeal to the decision from para.3 of this Article shall not prevent the decision from being carried out.

Identity card

Article 23

Persons who have been issued the license from Art. 23 of this law have to carry clearly visible identity card during stay in the area of border crossing.

The form of identity card and the process of issuing are determined by the Minister competent for internal affairs.

The costs of issuing an identity card from para. 1 of this Article shall be covered by the operator or another employer of a person to whom the card has been issued.

IV. BORDER CONTROL

The term

Article 24.

Border control is control of persons and traveling documents, control of a vehicle and control of things performed in the area of border crossing, and in connection with an intentional crossing of border before or immediately after the state border has been crossed, as well as control of traffic of persons, goods, means of transport, animals and plants over state border determined by law.

The place of border control

Article 25.

Border control and any other control determined by this and another law shall be done in the area of border crossing.

Under term determined by this law, border control can be done out of the area of border crossing in trains, aircraft, vessels; and if a person demands a special treatment – somewhere else, the costs of which shall be paid by the person.

Exceptionally from the provision in para.1 of the Article , border control in trains, aircraft, and vessels in international traffic, can be performed during their movement out of the area of border crossing, in accordance with the treaty.

Border control or a part of it, if it is in congruence with the treaty, can be performed on the territory of a foreign country.

Obligations of a person crossing the border

Article 26

A person crossing or having crossed the border has the obligation that, during border control, shows a travel document denoted by law and therefore ensures undisturbed control. The person is not allowed to leave the area of border crossing until border control is being finished.

The person from para.1 has the duty to give all information asked for about crossing the border to the police officer if asked for, and to act according to police officer's warnings and orders.

Inspection of a vehicle and possessions

Article 27

The user of a vehicle and possessions (i.e. things) has to be present during their inspection.

If a person from para.1 demands, police officer has the obligation to issue verification about the inspection of the vehicle and possessions.

Procedure with the things found

Article 28

If, during inspection of a person, things, or a vehicle, police officer finds things which should be taken away according to the law denoting regulations about criminal or legal offence, or things which are needed for following the procedure, it shall be carried out according to the law.

The objects found which are not the subject to a criminal or legal offence, but liable to duty, shall be given away go the customs officers or to another government body.

Minimal level of border control

Article 29

When it is not possible to perform complete inspection due to special reasons, although all human resources have been used and organizational possibilities undertaken, if a slowdown or an unacceptably long waiting for border crossing occurs, resulting in serious difficulties for normalization of traffic, border police has the authority to temporarily proclaim omission of certain acts during border control.

While performing inspection from para.1 of this Article border police are obliged to apply minimal level of control, which means proving identity and reliable control of travel documents validity of persons crossing the border.

Police officer responsible for organization and implementation of border control shall define priority goals of border control which should be adapted to present security conditions in order to be as efficient as possible.

While defining the priorities, control of entering is more important than control of leaving the country.

Border police shall inform border crossing of neighboring country about the measures taken.

Verification of crossing the border

Article 30

If by a treaty it is not defined in a different way, crossing the state border of the Republic of Serbia is verified by a seal, in the following way: the citizens of the Republic of Serbia while leaving the country, and to their request – on return, while entering the Republic of Serbia, while the foreigners only when entering the Republic of Serbia.

Persons who cross the border with identity card only have the right to be given written verification on their request by the police officer; and it can serve as a proof about entering or leaving the country.

The content on the seal from para.1 of this Article, and the form of the written verification from para.2 of this Article, as well as the way data input about prohibition to enter the country, together with other relevant data that could be written in a travel document are defined by the Minister competent for internal affairs.

Carrying weapons and ammunition in and out

Article 31

Persons who cross state border are allowed to carry in or out such kinds of weapons and ammunition which can, according to the law, be possessed and carried in the Republic of Serbia, under the condition to report that weapon to the police officer while crossing the border.

Unreported weapons and ammunition shall be taken away on border crossing and handed over to a competent body for further procedure.

Article 32

Members of foreign army, police and other security services who come to an official visit to the Republic of Serbia, and are supposed to carry small arms while on duty, or they are a part of their uniform, are allowed to enter the Republic of Serbia in uniform and with the arms, that is, they can keep and carry small arms while being in the country, but, with previous written notification to the Ministry.

The representatives of foreign security agencies who are on duty, and follow and protect foreign representatives, representatives of various institutions or international organizations during transit or visit to the Republic of Serbia, can take and carry small arms and ammunition only with the permission of the Ministry. The permission is temporary, it lasts as long as the visitor they follow and protect is in the country, and special conditions for entering can be determined as well.

Permission from para.2 of this Article is issued without a fee on the form defined by Minister competent for internal affairs.

Arms carried for hunting or in transit

Article 33.

Persons, who cross the border or are in transit over the territory of the Republic of Serbia because of hunting, are obliged to report weapons and ammunition when crossing the border.

Permission for keeping and carrying arms for hunting during hunting in the Republic of Serbia, as well as permission for transit of hunting arms over the territory of the Republic of Serbia are issued by border police.

Carrying weapons and ammunition of shooting organizations

Article 34

Members of shooting organizations, who travel in group or individually to a foreign country because of a competition or preparation for a competition, are allowed to carry arms and ammunition such purposes on the basis of permission issued by the Ministry.

To the members of foreign shooting organizations who are coming to the Republic of Serbia for participating on shooting competitions or because of preparations for such competitions, Art.33 para.1 of the law is applied.

Weapons and ammunition from para.1. and 2. of this Article cannot be carried over border crossings for neighboring countries.

Duties of a person driving a vehicle

Article 35

A person driving a vehicle while crossing the border has to be careful about following the signs, instructions and orders of the police officer, to steer and stop the vehicle on the area left for the control of the vehicle,; that place cannot be left until control has been done.

Having finished the control, a person driving the vehicle over the border crossing is obliged to leave the area.

Duties of an operator, an owner and a user of a vehicle.

Article 36

An operator, an owner, a user of a vehicle, that is, a person who drives it, are obliged to make the border crossing control possible by creating the best possible conditions for the control.

An operator, that is the captain of the vessel, a driver of a vehicle and a driver using somebody else's vehicle should make it possible that passengers do not leave the means of transport and the area of border crossing before the control regulated by this law has been finished, and to made sure that after the control, the same people get on and of the vehicle.

Border control of persons who are in transit in international transport by air

Article 37

Border control regulated by this law is not performed upon people who are in transit over the territory of the Republic of Serbia in international air traffic, if, after landing and an international airport, they continue their journey without delay and do not leave the aircraft or spend the time in the place especially made for such purposes.

Stopping a train in international traffic

Article 38

A train in international traffic which enters or leaves the Republic of Serbia must not stop on the part of railway between borderline and the area of border crossing, except in cases in vis maior or when it is necessary for regulation of railway transport.

If a train in international traffic which is entering or leaving the Republic of Serbia, has to stop on the part of railway between borderline and the area of border crossing because of emergency, the staff is to prevent the passengers from leaving the train, and to make sure that there would be no entries as well, so that border police would be notified at once about the stopping of the train.

Border crossing for international inland waters traffic

Article 39

A vessel in international traffic on inner waters of the Republic of Serbia, on which the regulations of international transport are applied, shall cross the state border on border crossing opened for vessels on international rivers.

Docking a vessel in international transport out of border crossing

Article 40

Docking a vessel in international transport out of border crossing for water transport, unless in case of emergency, is approved by a competent port authority in accordance with border police and competent customs.

The captain of the vessel from para.1 of this Article which has to stop due to vis maior out of international border crossing has to report the nearest police headquarters or the nearest police station.

Getting aboard and getting ashore of a person in international inner waters traffic

Article 41

Persons who enter the Republic of Serbia or leave the Republic of Serbia to go abroad can get ashore or get aboard only on the border crossing for international inner waters traffic, if not decided differently by a treaty.

The captain of a vessel in international inner waters traffic must not accept a person aboard without a valid travel document determined for crossing the border, unless in the case of saving a life of a person.

Getting aboard and getting ashore of persons out of border crossing in case from para. 2 of this Article have to be reported to the nearest police headquarters, that is, a police station by the captain at once.

Duties of a captain of a vessel in international transport

Article 42

A captain of a vessel in international traffic has to submit the list of passengers and a list of crew on the vessel after arrival and before leaving, unless proclaimed differently by a treaty, and submit their travel documents as well.

A captain of a vessel is obliged to report every person who is present on the ship, but without a valid traveling document, and who has got aboard without this consent immediately after the docking.

A captain of a vessel must not allow the person from para. 1 of this Article or a person who has been denied to enter the Republic of Serbia to get ashore without the permission of the police.

The costs of stay and the costs of leaving the Republic of Serbia of the persons from para 2. and 3 from this Article, if such a person gets ashore without the permission of border police, will be paid by the captain of a vessel.

The regime of sailing for foreign yachts and boats

Article 43

Foreign yachts and boats which are made for recreation and sport, are allowed to move, and stop along the inner waters of the Republic Serbia which have the international regime of sailing with the consent of competent port authority.

The approval from para.1 of this Article is being issued with the termination date of 30 days.

The regulations from Art. 42. of the law are applied to the members of a crew and travelers on a foreign yacht or boat aimed for recreation and sport.

Moving of an aircraft along the borderline

Article 44.

Air space above the borderline cannot be used for aircraft.

For flying a plane above the Republic of Serbia for flights within 300m near the state border must be asked permission by the border police

Landing a plane out of the place designed for international air traffic

Article 45

The captain of a vessel in international traffic who lands a plane due to vis maior or the case of emergency out of the place designed for international air traffic is obliged to notify the nearest police management office.

Giving information about personal data and travel documents of passengers in international air traffic.

Article 46.

On the request of border police, the plane company in the international air transport is obliged to give personal data and data on travel documents of all the passengers who are on his plane, to the border police and before the landing on an airport.

Persons who do not meet the conditions for entering the territory of the Republic of Serbia shall be returned to the starting point free of charge, the owner shall have to pay for it.

Permission to move or stop on the area of a settlement in which there is a border crossing

Article 47.

Member of a crew of a foreign vessel, train or a plane who does not have a required visa, during the time of staying a vessel, train or a plane on the area of the border crossing, a port or a dock, can be issued permission for moving and stopping on the area of a settlement in which there is the border crossing, a port or a dock.

The permission from para.1 of the Article is given on the written request of the captain of a foreign vessel, train or a plane by the border police, for the time of staying a foreign vessel, train or a plane, but no longer than 30 days.

The form of the permission from para.1 of the Article is given by the Minister competent for internal affairs.

V. PROTECTION OF THE STATE BORDER

Article 48.

The protection of the state border comprises the unit of measures, acts and competencies that are undertaken near the state border, on the part of state border between border crossings and on border crossings after regular working hours aiming for preventing unauthorized crossing of state border and the protection of its immunity.

Article 49.

The protection of state border can be done by technical means including electronic devices.

VI. DETERMINING, MARKING AND CONSTITUTING THE STATE BORDER

Denoting the state border

Article 50.

State border is determined by an international contract.

The preparation for concluding international contracts about stating the state border is done by the Ministry of foreign affairs and other state bodies in a way which shall be determined by the government in cooperation with the competent bodies of neighboring countries, in concordance with the law.

Marking the borderline

Article 51.

The borderline is marked with border signs,

The type, shape and the way of placing these marks are determined by the international contract.

The measuring, marking, renewing and maintenance of the borderline signs are done by the government body competent for the jobs of geodesist.

Marking the distance of the borderline

Article 52.

If the borderline is not visible enough, on the roads and other communication near the state border a special billboards with text and lights can be erected in order to warn that the state border is near.

Special boards and signs from para 1. of this Article , on the request of border police is placed and maintained by a government body competent for securing the transport system.

On these boards and signalization from para 1. of this Article it is forbidden to place other boards or signalization in order not to diminish visibility of the original boards warning about the nearby the state border.

The shape, content, and the ways of placing these special boards and signalization are defined by the Minister competent for internal affairs.

Article 53.

The owner or the user of land has to provide the free entrance for placing and maintenance of these marks on the area of border crossing.

Borderline maintenance

Article 54.

If in accordance with an international agreement a borderline should be cleared from trees, bushes and other plants which could diminish visibility of borderline marks, the jobs or maintenance shall be undertaken by the government body competent for jobs of geodesic engineering.

Violation of state border

Article 55.

Violation of state border or borderline incidents shall be defined by the Ministry.

Violation of state border and borderline incidents shall be solved in accordance with a treaty or by diplomatic means if there is no treaty.

Ways of defining the violation of state border and borderline incidents shall be administered by the minister competent for internal affairs.

The prohibition of keeping certain plants

Article 56.

Due to the visibility of borderline, the minister competent for internal affairs can prohibit the planting of certain cultures, as well of certain types of fruit and trees, at the distance of 100m away from the borderline, but, if it is for the safety measures, the distance can be longer.

In the case form para1. of this Article the owner or the use of land has no right of compensation.

Prohibition or diminishing of certain activities near the borderline

Article 57

If the safety reasons demand it, the Government can forbid, or limit sailing, hunting, fishing, flying the plains, moving, keeping and settling in certain parts of the territory of the Republic of Serbia near the borderline. The prohibition or limitation can last till there are reasons for which the measures have been taken.

Hunting which is in the distance of 300m near the borderline must be announced in written form to the competent border police not later than 48 hours before the beginning of the hunt, the ending of which should be announced as well.

Fishing in waters that represent the borderline with a neighboring country, and if done by a vessel, has to be announced in writing not later than 24 hours before the beginning, and the ending of which should be announced as well

Administering the plan near state border

Article 58.

If a plan should be made in accordance with a special law concerning land within 300m far from the borderline, in the process of validation of the plan there should be congruity with the Ministry.

The congruity mentioned in para1. of this Article shall not be given if with a plan the safety and the visibility of the borderline should be diminished.

VII. INTERNATIONAL BORDER COOPERATION

Article 59

International border cooperation comprises the work of border police on the territory of a foreign country, cooperation with foreign borderline bodies, cooperation of the police officers for sharing information, as well as the work of foreign border police officers on the territory of the Republic of Serbia.

International cooperation from para.1 is done on the basis of a treaty.

Article 60

When in the framework of international cooperation a police officer performs certain duties, on the territory of a foreign country, measures and framework from Art.6 of the Law shall be taken, unless for those which are opposed to the treaty.

VIII RECORDS

Collection of personal data

Article 61

With the aim of the efficient execution of the work related to protection of the state border, the border police are authorized to collect personal data from a person on which the authorization is applicable, and to store and process the data in the records.

In order to keep the records set by this law, the border police are authorized to collect personal data from the person mentioned in the paragraph 1 of this Article, using technical and other means.

The technical and other means mentioned in the paragraph 2 of this Article imply the equipment and other technical devices which, with the aim of search, identification and tracing a perpetrator of the crimes and offences committed during the protection of the state border, serve the purpose of taking photographs, recording and monitoring. The equipment mentioned may be automatic.

When put in the borderline area, the equipment mentioned in the paragraph 3 of this Article must be put on a prominent place with the noticeable warning sign.

A regulation of the installation and use of the equipment and other technical devices mentioned in the paragraph 3 of this Article is passed by the Minister of Interior.

The recordings of personal data taken by the equipment and devices mentioned in the paragraphs 2 and 3 of this Article should be destroyed five years from the day of recording, unless they are needed in legal proceedings.

Types of recordings

Article 62

Border police are obliged to keep the record of the persons:

- 1) a border control is executed on;
- 2) forbidden to cross the state border;
- 3) under the procedure of identification;
- 4) with the issued license mentioned in the Article s 12, 21 and 47 of this law;
- 5) whose demand for the license issuance is rejected or the license is pulled as in the situations mentioned in the Article 22, paragraph 3, of this law;
- 6) members of the foreign security services to whom the permit for an entry in the Republic of Serbia is issued, or the arrival to the Republic of Serbia is announced;
- 7) with an ID card that allows progress or stay in the borderline area;
- 8) who violated the state border;
- 9) who announced hunting or fishing along the border line;
- 10) who demanded an approval of the coordination of a project, or a preliminary design mentioned in the Article 19 of this law;
- 11) with the issued approval mentioned in the Article 19 of this law;
- 12) with the issued permit for importing, transporting and exporting of the firearm and ammunition.

Content, the manner of keeping the record and the period of storing the data mentioned in the paragraph 1 of this Article are more closely regulated by the Minister of Interior.

Article 63

Personal data stored in the recordings kept according to the Article 62 of this law may be forwarded to other public officers in accordance with the law, and to the officers of the foreign states under the conditions regulated by the international law.

IX PENALTY PROVISIONS

Article 64

Fined with an amount from 100,000 to 1,000,000 dinars would be company:

- 1) if without permission of the Ministry constructs or sets objects, installation, equipment or devices in the borderline area (Article 19, par. 1 and 2 of this law);
- 2) if the operator does not submit an employee's written demand for the issuance of the license allowing progress or stay in the borderline area to the police before the employee starts working in the borderline area (art. 22, par. 1 of this law);
- 3) if an employee who possesses the license allowing progress or stay in the borderline area does not procure an ID card (art. 23, par. 1 of this law);
- 4) whose vehicle leaves the borderline area before the execution of a control regulated by this law (art. 35, par. 1 of this law);
- 5) if in time of the execution of a border control on a border line or in a vehicle, a person does not secure the conditions needed for the work of the border police (art. 36, par. 1 of this law);
- 6) if, as an operator, does not secure the conditions or prevent the control to be executed without interference in accordance with the regulations of this law (art. 36, par 1 of this law);
- 7) if the person does not secure for the travellers not to leave the borderline area before the control, or to get on board and enable other persons to get off board after the control (art. 36, par. 2 of this law);
- 8) if the international transportation airport does not secure space that facilitate the division of the travellers who take part in the international transportation from the other ones as well as the space for the foreign travellers who does not fulfil the conditions for entry in the country according to the special law (art. 36, par. 1 and art 37 of this law);
- 9) if the train on its way in or out of the Republic of Serbia halts on the part of railway between the border line and the borderline area, except in case of vis major or if necessary because of the adjustment of the railway transportation (art. 38, par. 1 of this law);
- 10) if a railway worker does not instantly inform the border police about the halting of a train in the international transportation under circumstances of the vis major or necessity, which entered or leaves the territory of the Republic of Serbia, does not secure the train or does not intervene on preventing the travelers to get off board, or others to get on board (art. 38, par. 2 of this law);
- 11) whose vessel in the international transportation crosses the state border line out of the crossing opened for the international river transportation (art. 39 of this law);
- 12) whose vessel in the international transportation, except in case of vis major, docks out of the preordained river or lake crossing without a permit needed (art. 40, par. 1 of this law);
- 13) whose vessel boards a person who does not possess valid documents regulated for the crossing of the state border or allows persons to get on or off board out of the crossing, except in case of rescue (art 42, par 1 of this law);
- 14) whose commander of the vessel, on coming from abroad or going abroad, does not hand in to the border police a copy of list of the members of the crew and list of the travelers on the vessel, or does not allow the access to the documents regulated for the crossing of the state border (art 42, par 1 of this law);

- 15) whose commander of the vessel, after docking in a port or wharf, does not fulfill the legal obligation from the Article 42, paragraph 2 of this law;
- 16) if a pilot of the aircraft in the international transportation, which, under the conditions of vis major or necessity, lands out of a place preordained for the international air transportation, does not inform the nearest regional police office or a police station about the landing (art 45 of this law);
- 17) if a member of the crew of an international vessel, train or an aircraft, who does not have a needed visa, in time of delay of vessel, train or an aircraft in the borderline area or port or wharf, moves without the needed license through the populated area in which is the crossing, or port or wharf (art 47, par of this law);
- 18) if on the special warning or signalling panels puts other panels or indication which diminish visibility of the panel and signalling that indicate on the border line (art 52, par 3 of this law);
- 19) if on the land which one owns or uses disables free crossing or in any other way disturbs the protection of the state border or border control (art 53 of this law);
- 20) if the person grows certain agricultural cultures or plants certain sorts of fruit and trees and other vegetation if it is forbidden by the act of the Minister of Interior (art 56, par 1 of this law);
- 21) if the person sails, hunts, fishes or flies by an aircraft, moves along or halts along the border line, if it is forbidden or limited by the act of the Government (act 57, par 1 of this law);
- 22) if without a written announcement handed to the border police 48 hours before the beginning of a hunt, or not later than 24 hours before the beginning of the fishing, using a vessel, hunts or fishes in a certain zone along the border line (art 57, par 2 and 3 of this law);

For the legal offence from the paragraph 1 of this Article would also be fined a person responsible in the corporation with the amount from 5,000 to 50,000 dinars.

Article 65

With an amount from 5,000 to 50,000 dinars or 30 days of confinement would be punished for an offence a person if:

- 1) the person tries to cross the state border regardless of the determined mode of the crossing and the official working hours of the border crossing, or if the person crosses or tries to cross the state border on the crossing without valid travel or other documents regulated for the crossing of the state border (art 10, par 2 of this law);
- 2) has no document regulated for the crossing of the state border or refuses to show it to a police officer, or refuses to be subjected to a control or leaves the borderline area before the control is completed or tries to avoid a control in any other way (art 26, par 1 of this law);
- 3) do not report hunting or shooting firearms and ammunition which that person imports in the Republic of Serbia (art 31, par 1 and art 34, par 1 of this law);
- 4) gets off or on board of a vessel which sails in or out of the Republic of Serbia out of the crossing (art 41, par 1 of this law).

Article 66

With an amount from 3,000 to 30,000 dinars or 15 days of confinement would be punished for an offence a person if:

- 1) the person crosses the state border out of the crossing under the circumstances of vis major and does not inform the border police about it (art 11, par 2 of this law);

- 2) the person moves through or halts in the borderline area without a needed permit or if on the crossing and its area does not conduct oneself by the orders and directives issued by the police officials (art 20 of this law);
- 3) the person does not wear a visible ID card in the borderline area while move through it or halts in it (art 23, par 1 of this law);
- 4) the person does not give to a police officer the information related to crossing the state border that latter inquired or if the person does not conduct oneself by the orders and directives (art 26, par 2 of this law);
- 5) as a commander of a vessel in the international transportation does not instantly inform the regional police office or police station about the place of docking of the vessel that docked out of the international border crossing in case of vis major (art 40, par 2 of this law);
- 6) as a commander of a vessel in the international transportation does not instantly report to the nearest official institution getting on or off board out of the crossing in case of rescue (art 41, par 3 of this law);
- 7) as a commander of a vessel allows unauthorised debarkation of a person without a proper permit for crossing the state border or a person who embarked the vessel without authorisation (art. 42, par. 3 of this law);
- 8) if on the special warning or signalling panels puts other panels or indication which diminish visibility of the panel and signalling that indicate to the border line (art. 52 par. 3 of this law)
- 9) if on the land which one owns or uses disables free crossing or in any other way disturbs the protection of the state border or border control (art 53 of this law)
- 10) if the person grows certain agricultural cultures or plants certain sorts of fruit and trees and other vegetation if it is forbidden by the act of the Minister of Interior (art 56, par 1 of this law);
- 11) if without a written announcement handed to the border police 48 hours before the beginning of a hunt, or not later than 24 hours before the beginning of the fishing, using a vessel, hunts or fishes in a certain zone along the border line (art 57, par 2 and 3 of this law).

Article 67

A person who steers a vehicle by which one crosses the state border shall immediately be fined 5000 dinars if the person does not obey the traffic signs and instructions and orders given by a police officer or does not dock, or halt the vehicle in a designated area of the border crossing or leaves the area before the control has been completed, or does not leave the area after the control has been completed.

X TRANSITORY AND FINAL PROVISIONS

Article 68

Regulations based on the authorisations from this law shall be determined within a period of one year after the passing of this law.

Article 69

On the day when this law comes into force the Law on the state border crossing and motion in the borderline area ("Official Gazette of the Socialist Federal Republic of Yugoslavia" no. 34/79, 56/80 and 53/85 and "Official Gazette of the Federal Republic of Yugoslavia" no. 24/94, 28/96-by another

law and 68/02 and “Official Gazette of the Republic of Serbia” no. 101/05- by another law) shall be considered null and void.

Until the implementation of the bylaws from the Article 68 of this law starts, bylaws passed based on the law from the para. 1 of this Article shall be applied, unless they collide with the provisions of this law.

Article 70

This law comes into force eight days upon publishing in the “Official Gazette of the Republic of Serbia”.

JUSTIFICATION

I CONSTITUTIONAL BASIS FOR PASSING THE LAW

The constitutional basis for passing this law is contained in Article 97 point 5 of the Constitution of the Republic of Serbia, which, among other things, determines that the Republic of Serbia fortifies and secures the system of border crossing and control of the turnover of goods, services and passenger transportation across the border.

II REASONS FOR PASSING THE LAW

The basis of the legal regulation of border crossing and security in the Republic of Serbia is the Law on the state border crossing and motion in the borderline area (“Official Gazette of SFRY no. 34/79), with its subsequent modifications, which mostly referred to the modification of the offence fine height. This law has been passed according to the constitutional concept of SFRY from 1974.

According to this law, the Republic of Serbia protects and controls its border by the model that is surpassed and obsolete and does not fully contribute to the achievement of objectives which contemporary border control systems should provide. Among other things, according to the existing law, the duties concerning the border crossing control and the borderline security are divided in a way that determines that the state border crossing is controlled by the police and secured by the Army. By taking over the security of the state border from the Army, one of the reform objectives in the EU integration process has been reached, which is demilitarization of the state border.

Joining the European Union is a strategic goal for the Republic of Serbia, which, among other things, implies acceptance of the adopted European values and standards in a wide array of fields.

With this aim, the Government has adopted the Strategic document for the integral administration of the border of the Republic of Serbia, in which it has determined priorities in adopting the regulations concerning organization of security of the state border which shall be in accordance with models, standards and recommendations of the European Union.

By adoption of this law, the Republic of Serbia shall establish an efficient system of borderline security, high standard of control and organized cooperation of all the institutions involved in the process.

The established system of border control protects immunity of the state border, prevents spreading of the border-related criminal activities, protects human health and lives and secures preservation of environment, prevents illegal border crossings and migrations.

The law, the passing of which is suggested, fulfils the prerequisites for accomplishment of the highest principles of an integral border control, which imply an open border for a free turnover of people and goods, and a closed border for all sorts of criminal and other illicit activities.

Apart from passing the legal regulations which are compatible with the solutions accepted in the region and the European Union, the importance of this law is that the Republic of Serbia, by adopting it, fulfils the legislative obligation of coordinating the existing regulations with the Constitution of the Republic of Serbia.

III EXPLICATION OF THE BASIC LEGAL INSTITUTES AND INDIVIDUAL SOLUTIONS

The **Basic provisions (art. 1-2)** establish the basic elements of the state border protection in the Republic of Serbia.

Article 1 of the Proposition of the Law determines the content of the law which contains the state border protection, organization and the model of protection. The objectives of the state border protection are also determined: securing the state border immunity, prevention and exposure of illegal acts and tracing the perpetrators, protection of human health and life, preservation of environment and prevention of illegal migration.

For easier comprehension of certain provisions of the law and creation of conditions for its application, Article 2 defines certain terms that have been used in the law.

Section II Bodies responsible for state border control (art 3-9) determines that the Ministry of Interior and other governmental bodies are responsible for the state border control and security (art 3). Since the tasks and duties that are executed at the border are multiple and complex, there is a need for the execution of the state border protection, with help of adequate mechanisms, to be organized in a way that secures synchronized action of all the partakers in the process, cooperation within and among the bodies, as well as international cooperation. Therefore, the principle of integral border control has been introduced in the Article 4 of the law.

Article 5 determines that the Border police of the Ministry directly performs a part of duties of the state border control, and the execution of these duties legislated by the Minister of Interior.

Article 6 determines that the border control contains the control of individuals, belongings and vehicles and authorizations, measures and acts applied by a police officer.

The law implies that the Government may decide that border control on certain crossings with border traffic can be executed by governmental bodies responsible for the custom's affairs, unless it is in collision with security reasons. In the situations mentioned the police officers give the instructions and provide professional assistance (art. 8).

Also, the Proposition determines that the border police may execute the control of individuals, vehicles and belongings, on public roads and buildings related to border turnover in the borderline area and other places between the crossings, on access roads along the state border, with the aim of preventing and exposure of illegal migrations and repression of border-related criminal actions (act. 9).

Section III Crossing of the state border (art. 10-23) determines that the crossing of the state border implies every movement of people across the state border, and that the border may be crossed at the official border crossing as a spot which has been determined for that purpose.

According to the provision of Article 11, it is determined in which exceptional cases the border may be crossed out of the official crossing which are: in case of vis major, with a clause that such a crossing must be reported to the authorities responsible as soon as possible, as well as in the cases when the crossing out of the official crossing has been anticipated by an international contract. As a novelty, the Law predicts that, if this has been anticipated by an international contract, or if one has been authorized by the officials of the bordering state, the border police may, in coordination with the local customs office, based on a request by a group or an individual, issue a border permit for the crossing of the state border out of the official border crossing, or the crossing of the border at the official border crossing regardless of the determined mode of the crossing and the official working hours of the border crossing.

The section regulates the category of contemporary border crossings, which shall be opened by a simple procedure and shall comply with the needs of the local population to effortlessly reach the land they cultivate, and which is on the territory of other state and for other activities predicted by Article 15.

Article 16 defines the borderline area which is determined by the Ministry in accordance with other governmental bodies which execute the state border control.

With the aim of protection and security of the state border and undisturbed traffic across the border, the Law predicts that construction and building of premises, change in their purpose and installation of utilities, equipment and devices at the borderline area may not disturb the execution of border control. The Ministry is authorized for this sort of approval (art. 19).

In context of a special system executed along the state border, this section determines special regulations for moving through or halting of an individual in the border crossing area.

According to these regulations, the right to move through or halt in the border crossing area have the individuals who intend to cross the border or have already crossed it, and they halt in the area because of the control, the individual who have a license needed, as well as the custom workers. For this purpose other individuals needs a license issued by the state police, under the legislated conditions. For the monitoring and prevention of violation of this system, it is determined that the individuals who work at the custom service and to whom the license is issued are obliged to wear the ID card on a visible spot in that area (art. 20-23).

Section IV Border control (art. 24-27) determines the mode of execution of the border control, specifying the authorizations that should be applied, rights and obligations of the certain persons in the process of controlling individuals, belongings and vehicle, as well as the specific regulations in case of control of the firearms and ammunition transported across the border.

As a rule, the border crossing control is executed at the border crossing area, but the execution out of that area is possible: in trains, vessels and aircrafts, and, by a demand and at the expense of the client, at some other place.

Article 29 determines that the state border police is authorized to execute a partial border control in specific situations such as: if, in consequence of the special conditions, it is not possible to execute a complete control, and thereby all other personnel and organization possibilities have already been applied, which causes a halt or an intolerably long awaiting for crossing the border, or the other inconvenient disturbances appear during the transport across the border crossing. The border police shall inform a state border of the neighbour state about the emergency measures.

Specifically determined are the conditions of transport of the firearms and ammunition across the border and by the members of foreign security services, firearms that shall be used in hunting or shooting contents, as well as the procedure with firearms that has not been reported (art. 31-34).

The section related to the Specific measures of control in certain branches of transportation (art. 35-47), among the basic regulations applicable on all kinds of transportation, determines specific regulations for crossing the state border adapted to the characteristics of every respective branch of transportation.

The law predicted the exception from the rule that the border control process must be executed at the border crossing area: it is determined that the control in trains, aircrafts and vessels in the international transportation may be executed during their move out of the border crossing, according to the international law. Specific rules are determined for an individual who steers a vehicle in order to cross the state border. All with the aim of prevention from the illegal crossing of the border control of crossing of the border on a defined crossing, prevention from the halt in transportation across the border, or unnecessary detention of the individuals or vehicles at the border crossing. With this aim the obligations to secure the conditions needed for the officer to execute a control at the border crossing and in the vehicle are determined for an operator or user of a vehicle (art. 35-36).

Article 37 determines that the individuals in transition via territory of our state in the international air transportation, who after the landing of an aircraft without unnecessary halt continue the travel and during that time do not leave the craft or spend that time in the area specifically defined for that purpose, shall not be subjected to control.

Also, special rules regulate crossing of the state border in the railway transportation, internal river transportation, and air transportation and, related to that, specific obligations of engine driver and a commander of a vessel, then the regulations related to docking, embarkation and disembarkation of the passengers and other individuals off the vessel who cross the border, as well as the regulations relating to certain airways over the territory of our state for the flyover of an aircraft, forced landing of an aircraft in the international transportation out of the airport designated for the international

transportation in case of emergency, as well as the other issues concerning the safety of the border. Thus the system at the border line and the border crossing as a place designated for crossing the state border and execution of the border control is fully determined.

Section **V Securing the state border (art. 48-49)** introduces significant modifications, according to new standards, propositions and principles of securing of the state border adopted in the state members of the European Union, which is reflected in the fact that the Ministry of Interior secures the border instead of the Army. It is determined that the securing of the state border implies measures, actions, and authorizations applied along the state border, in the area between two border crossings and at the border crossings after the official working hours with the aim of the prevention of illegal crossing of the state border and protection of its immunity. The securing of the state border may be executed with technical equipment involving electronic devices.

Section **VI Definition, marking and organization of the state border (art. 50-58)** determines all the issues of importance for definition of the state border, its fixing with the neighbour state, marking and signalization of the closeness of the state border.

With the aim of creation of conditions for efficient execution of protection of the state border and the border line certain protection measures that exist in every contemporary system are determined. The measures are related to: clearing of the border line area with the aim of securing visibility of the border line (art. 54); ban from growing certain cultures, or planting certain fruit, trees and other vegetation along the border line (art. 56); ban of flyovers and certain other activities along the border line and standardization of special conditions for intended hunting and fishing along the state border (art. 57); determination of the special procedure for the organization of the borderline area and presentation of construction planning (art. 58).

The significant section of securing the border line and protection of its immunity are implied in the provisions that closely organise issues of violation of the state border, determined by the international agreement. This provision determines the procedure for determination and solution of the border incidents and, related to that, determines the duties of certain bodies (art. 55).

Section **VII the international border cooperation (art. 59-60)** determines the procedure which realizes the international border coordination and rules of conduct of the responsible bodies involved in the cooperation.

Namely, due to the objectives that protection of the state border according to the principles of the integrated border management shall secure, it is necessary for the international cooperation to be realized in the execution of these procedures. This cooperation implies the exchange of certain personal and other data with the responsible bodies of other states, performing of certain affairs on the territory of other state, and vice versa, cooperative performing of certain affairs with responsible bodies of other states, in region as well as in wider area, exchange of knowledge and experience with other states, performing of joint actions, delegation of representatives – police officials for cooperation to the bodies of other states and seats of international organizations etc. The conditions for the international cooperation between the governmental bodies responsible for securing the state border as well as for the exchange of police officials for cooperation are the signing of the international agreement.

With the aim of the execution of border control and securing the state border, section **VIII Records (art. 61-63)** determines the records which the border police is obliged to keep. Content, the manner of keeping the record and the period of storing the data shall be closely organised by the Minister of Interior.

In section **IX Punitive provisions (art. 64-67)**, it is suggested that certain forms of violations should be qualified as the offences punishable by fines, and for the individuals by a confinement. For the individual actions which more seriously violate the defined system at the state border, in addition to a fine, certain measures of protection are possible to be legislated (confiscation of belongings, working ban for a certain period, etc). The suggested solutions provide an appropriate balance between the protection of freedom and civil rights and appropriate protection of state and society on the whole, from possible abuses.

In section **X Transitory and final provisions (art. 68-70)**, it is determined when this Law comes into force, as well as the other elements needed for its execution.

IV THE EVALUATION OF FINANCIAL MEANS NEEDED FOR THE EXECUTION OF THE LAW

Execution of this Law does not require any additional funds from the national budget, since the same governmental bodies shall be involved in the integrated border management and the Ministry of Interior has fully assumed the execution of securing the state border from the Army.

THE ANALYSIS OF THE EFFECTS OF THE LAW

Passing of the Law coordinates the existing legal regulations in the field of control of crossing and securing the state border with the Constitution of the Republic of Serbia within the deadlines determined by the constitutional law for execution of the Constitution of the Republic of Serbia.

This law introduces the standards of protection of the state border which shall secure the open turnover of people and goods and closure of the border for all criminal and other illegal activities in accordance with the concept of the Strategy of the integral border management in the Republic of Serbia, which is synchronized with the models, standards and recommendations of the European Union.