

Intelligence Legislation Model

# The Netherlands

Intelligence and Security Services Act, 2002



Geneva Centre for the  
Democratic Control of  
Armed Forces (DCAF)

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### **About DCAF**

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) promotes good governance and reform of the security sector. The Centre conducts research on good practices, encourages the development of appropriate norms at the national and international levels, makes policy recommendations and provides in-country advice and assistance programmes. DCAF's partners include governments, parliaments, civil society, international organisations and security services, such as police, judiciary, intelligence agencies, border security services and the military.

Further information on DCAF is available at:  
[www.dcaf.ch](http://www.dcaf.ch)

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# Introduction to the Toolkit

Legislating for the security sector is a complex and difficult task. Many lawmakers thus find it tempting to copy legislation from other countries. This expedites the drafting process, especially when the texts are available in the language of the lawmaker, but more often than not, the result is poor legislation.

Even after being amended, the copied laws are often out of date before coming into effect. They may no longer be in line with international standards or they may not fully respond to the requirements of the local political and societal context. Copied laws are sometimes inconsistent with the national legislation in place.

In some cases, there is simply no model law available in the region for the type of legislation that is needed. This has been the case in the Arab region, where the security sector has only slowly begun to be publicly debated. It is thus difficult to find good model laws for democratic policing or for parliamentary oversight of intelligence services.

It is therefore not surprising that many Arab lawmakers have felt frustrated, confused, and overwhelmed by the task of drafting legislation for the security sector. They found it difficult to access international norms and standards because little or no resources were available in Arabic. Many of them did not know where to search for model laws and several were about to give up. Some eventually turned to DCAF for assistance.

The idea of a practical toolkit for legislators in the Arab region came when practitioners began looking for a selection of standards, norms and model laws in Arabic that would help them draft new legislation. Experts from the Arab region and DCAF thus decided to work together and develop some practical tools.

## **Who is this toolkit for?**

This toolkit is primarily addressed to all those who intend to create new or develop existing security sector legislation. This includes parliamentarians, civil servants, legal experts and nongovernmental organisations. The toolkit may also be helpful

to security officials and, as a reference tool, to researchers and students interested in security sector legislation.

## **What is in the toolkit?**

The bilingual toolkit contains a number of booklets in English and Arabic that provide norms and standards, guidebooks as well as practical examples of model laws in various areas of security sector legislation.

The following series have been published or are being processed:

- Police legislation
- Intelligence legislation
- Military Justice legislation
- Status of Forces Agreements

Additional series will be added as the needs arise. The existing series can easily be expanded through the addition of new booklets, based on demand from the Arab region.

For the latest status of publications please visit: [www.dcaf.ch/publications](http://www.dcaf.ch/publications)

## **What is the purpose of this toolkit?**

The toolkit seeks to assist lawmakers in the Arab region in responding to citizens' expectations. Arab citizens demand professional service from police and security forces, which should be effective, efficient and responsive to their needs. They want police and security organisations and their members to abide by the law and human right norms and to be accountable for their performance and conduct. The toolkit thus promotes international standards in security sector legislation, such as democratic oversight, good governance and transparency.

The toolkit offers easy access in Arabic and English to international norms as well as examples of legislation outside the Arab region. This allows to compare between different experiences and practices.

The scarcity of Arab literature on security sector legislation has been a big problem for Arab lawmakers. The toolkit seeks to address this deficiency. One of its aims is to reduce time lawmakers spend on searching for information, thus allowing them to concentrate on their main task. With more information becoming available in Arabic, many citizens and civil society groups may find it easier to articulate their vision of the type of police and security service they want and to contribute to the development of a modern and strong legal framework for the security sector.

**Why is it important to have a strong legal framework for the security sector?**

A sound legal framework is a precondition for effective, efficient and accountable security sector governance because it:

- Defines the role and mission of the different security organisations;
- Defines the prerogatives and limits the power of security organisations and their members;
- Defines the role and powers of institutions, which control and oversee security organisations;
- Provides a basis for accountability, as it draws a clear line between legal and illegal behaviour;
- Enhances public trust and strengthens legitimacy of government and its security forces.

For all these reasons, security sector reform often starts with a complete review and overhaul of the national security sector legislation. The point is to identify and address contradictions and the lack of clarity regarding roles and mandates of the different institutions.

# How to use this tool?

Every state has specific needs and expectations regarding its intelligence services. These demands are influenced by factors such as history, legal tradition, and a state’s security environment. Legislation on intelligence services will invariably reflect these factors. Notwithstanding these differences between states, lawmakers can benefit from studying other states’ legislation and practice. Additionally, lawmakers should refer to international standards and best practice in the area of intelligence governance. It is important to note that international law imposes restrictions on what states can permit their intelligence services to do; lawmakers should take account of these standards when developing the legal framework for intelligence services.

The intelligence series of the “Legislating for the Security Sector” toolkit facilitates the drafting process and development of legislation for intelligence services by providing good examples of intelligence legislation, as well as an explanation of the relevant international standards in this area.

Although each state’s legislation on intelligence services is unique, a number of common elements of a comprehensive legal framework for intelligence services can be identified. The Editorial Board of the toolkit “Legislating for the Security

**Table 1: The analytical grid for comparing intelligence legislation**

Subject	Content
General provisions	<ul style="list-style-type: none"> <li>• Definition of key terms used in the law</li> <li>• Description of institutions covered by the law</li> </ul>
Organisation and structure	<ul style="list-style-type: none"> <li>• Explanation of how the intelligence community is structured and which institutions are involved</li> <li>• Description of who is responsible for the intelligence services</li> </ul>
Mandate and functions	<ul style="list-style-type: none"> <li>• Description of the role of the intelligence services and the tasks that they are and are not permitted to perform</li> </ul>
Information collection powers	<ul style="list-style-type: none"> <li>• Description of what information intelligence services can and cannot collect</li> <li>• Explanation of the special powers available to the intelligence services to collect information, and when such measures may be used</li> <li>• Details of how and by whom special powers are authorised, implemented and reviewed</li> </ul>
Management and use of personal data	<ul style="list-style-type: none"> <li>• Rules on how personal data can be collected, retained, accessed, transferred, and deleted</li> <li>• Explanation of how individuals can apply to access their personal data held by the intelligence services</li> </ul>
Co-operation and information sharing with domestic and foreign bodies	<ul style="list-style-type: none"> <li>• Rules on which domestic and foreign entities the intelligence services may cooperate with</li> <li>• Details on controls that apply to information sharing with domestic and foreign entities</li> <li>• Details of how and by whom intelligence Co-operation is authorised and reviewed.</li> </ul>
Internal management and control	<ul style="list-style-type: none"> <li>• Explanation of the internal management system</li> <li>• Description of the roles and responsibilities of managers of the intelligence services</li> </ul>

Sector” developed a grid that highlights these elements (see Table 1). This booklet contains the Dutch Intelligence and Security Services Act in its original form, as well as the provisions of this legislation reorganised by topic, as shown in the grid. This allows lawmakers to easily identify the specific topics that should be covered by legislation on intelligence services, as well as to compare different laws according to particular topics.

Executive control	<ul style="list-style-type: none"> <li>• Explanation of the role and responsibilities of the executive in controlling and overseeing the intelligence services</li> </ul>
Parliamentary and expert oversight	<ul style="list-style-type: none"> <li>• Description of parliamentary and expert oversight bodies outside the intelligence services and the executive</li> <li>• Description of the mandate and functions of external oversight bodies</li> <li>• Details of the powers available to external oversight bodies, including their access to information and officials.</li> </ul>
Complaints handling	<ul style="list-style-type: none"> <li>• Details of how individuals may complain about the intelligence services</li> <li>• Explanation of which institution is competent to handle complaints about the intelligence services</li> <li>• Description of the powers available to the complaints-handling institution</li> </ul>
Personnel	<ul style="list-style-type: none"> <li>• Details of the rights and duties of members of the intelligence services</li> <li>• Information on possible sanctions for unlawful actions</li> </ul>
Other	<ul style="list-style-type: none"> <li>• Articles which do not fall into the other categories</li> <li>• Articles that have been removed</li> </ul>



# The Dutch Intelligence and Security Service Act

## Overview

The Intelligence and Security Services Act regulates the two Dutch intelligence services: the General Intelligence and Security Service (AIVD), and the Military Intelligence and Security Service (MIVD). The Dutch Parliament passed the act in 2002 after the Council of State (the high court for administrative law) found that parts of the existing law on the intelligence services were incompatible with the European Convention on Human Rights, and the case law of the European Court of Human Rights.

The Act mandates the AIVD to investigate persons or organisations which present a threat to the existence of the democratic legal order, the security of the state or other vital interests of the state. The AIVD performs this mandate both domestically and on the territory of other states. In addition to collecting information for these purposes, the AIVD conducts security clearance assessments, and is also responsible for protecting classified state information. The Intelligence and Security Service Act mandates the MIVD to conduct investigations relevant to the work of the Dutch armed forces. This includes collecting information about the armed forces of other states, and about settings in which the Dutch armed forces are (or may become) involved. The MIVD also carries out security clearance assessments for employment in the armed forces, and is responsible for protecting the armed forces' information systems.

Neither the AIVD nor the MIVD have law enforcement functions, and they are not permitted to arrest or detain anyone.

## Control and oversight of the Dutch intelligence services

The Dutch intelligence services are controlled and/or overseen by five institutions: the executive (the Minister of the Interior for the AIVD and the Minister of Defence for the MIVD); parliament; the Review Committee on the Intelligence and Security Services, the judiciary, the National

Ombudsman, and the Court of Audit.

1. The executive outlines overall policies and priorities for the intelligence services and may establish rules to regulate their activities. Additionally, the executive is politically accountable for the intelligence services and must report to parliament on their activities. The relevant minister must also authorise the intelligence services' use of special powers (to collect information) such as monitoring phone calls or breaking into houses.
2. The Dutch parliament reviews and approves the proposed budgets, including the general budgets for intelligence services. It does not however, scrutinise classified items in the budget. The House of Representatives (lower house) also has an Intelligence and Security Committee. This committee is made up of the leaders of the political parties in the lower house of the Dutch Parliament. It has the power to oversee any aspect of the intelligence services' work and the right to access all relevant information. However, in practice, this committee does not conduct day-to-day oversight of the intelligence services and does not carry out investigations. These tasks are given to the Review Committee on the Intelligence and Security Services (see below). It should be noted that the Intelligence and Security Service Act does not address the functions of this committee; these guidelines are included in the Rules of Conduct of the House of Representatives.
3. The Review Committee on the Intelligence and Security Services is an expert oversight body which reviews the legality of the intelligence services' activities. It also oversees the ministers' handling of complaints made about the intelligence services.

The Committee is made up of three persons who are normally former senior members of the judiciary or the police; they are not members of parliament or the executive. Committee members are appointed by royal decree upon the recommendation of the

responsible minister. However, candidates must first be nominated by parliament; a panel of senior members of the judiciary may also make recommendations for nominations. The Committee has access to all information held by the intelligence services and may subpoena witnesses.

4. The judiciary can be involved investigating and adjudicating on civil and criminal matters concerning the activities of the intelligence services. The courts must also authorise the interception of postal communications by the intelligence services.
5. The National Ombudsman can receive and investigate complaints about the actions of the intelligence services. However, individuals must first file a complaint with the relevant minister; if they are dissatisfied with the handling of their complaint they may submit it to the ombudsman. The ombudsman can issue recommendations to the minister on what action should be taken to address a complaint.
6. The Court of Audit can review the expenditure of the intelligence services and, in this context, has the power to access classified information.

### **Other relevant laws**

There are number of other laws and regulations which are relevant to the intelligence services and their oversight. These include the Security Investigations Act (which regulates security clearance processes), National Ombudsman Act (outlines the functions and powers of the national ombudsman), Rules of Conduct of the House of Representatives, and the General Administrative Law Act.

### Sources:

- General Intelligence and Security Service of the Netherlands website: <https://www.aivd.nl/english/>
- Review Committee on the Intelligence and Security Services website: <http://www.ctivd.nl/?English>

# The Act, Presented in the analytical grid

(Extracts of Articles of the Dutch Intelligence and Security Services Act. For the complete version of the law, please see pages 40-65.)

Subject	Articles of the Dutch Intelligence and Security Services Act, 2002
<p><b>General provisions</b></p>	<p><b>Article 1</b>                      In this Act and the provisions based on this Act, the following terms are defined:</p> <ul style="list-style-type: none"> <li>a. service: the General Intelligence and Security Service or the Defence Intelligence and Security Service;</li> <li>b. co-ordinator: the functionary referred to in Article 4;</li> <li>c. the relevant Minister:                             <ul style="list-style-type: none"> <li>1. regarding the General Intelligence and Security Service: the Minister of the Interior and Kingdom Relations;</li> <li>2. regarding the Defence Intelligence and Security Service: the Minister of Defence;</li> <li>3. regarding the co-ordinator: the Prime Minister, Minister of General Affairs;</li> </ul> </li> <li>d. information: personal data and other information;</li> <li>e. personal data: information relating to an identifiable or identified, individual natural person;</li> <li>f. information processing or the processing of information: any action or any set of actions regarding information, including in any case collecting, recording, arranging, storing, updating, altering, retrieving, consulting or using information, disseminating information by means of forwarding, distributing information or any other form of making available of information, and the assembling, interrelating, protecting, exchanging or destroying of information;</li> <li>g. supervisory committee: the committee referred to in Article 64.</li> </ul> <p><b>Article 2</b>                      The services and the co-ordinator will exercise their duties in accordance with the law and in subordination to the relevant Minister.</p>
<p><b>Organisation and structure</b></p>	<p><b>Article 4</b></p> <ul style="list-style-type: none"> <li>1. There is a co-ordinator of the intelligence and security services.</li> <li>2. The co-ordinator is appointed by Royal Decree on the joint recommendation of the relevant Ministers.</li> <li>3. The co-ordinator is responsible for, in accordance with the instructions of the Prime Minister, Minister of General Affairs and other relevant Ministers:                             <ul style="list-style-type: none"> <li>a. preparing the consultations referred to in Article 3;</li> <li>b. co-ordinating the performance of the tasks of the services;</li> </ul> </li> <li>4. The co-ordinator will inform the relevant Ministers of anything that may be of concern.</li> <li>5. Chapter 3, with the exception of section 3.2.2, and chapter 4, apply by analogy to the processing of information by the co-ordinator.</li> </ul>

	<p><b>Article 7</b></p> <p>1. There is a Defence Intelligence and Security Service.</p>
<p><b>Mandate and functions</b></p>	<p><b>Article 6</b></p> <p>2. In the interest of national security the General Intelligence and Security Service has the following tasks:</p> <ol style="list-style-type: none"> <li>a. conducting investigations regarding organisations that, and persons who, because of the objectives they pursue, or through their activities give cause for serious suspicion that they are a danger to the continued existence of the democratic legal system, or to the security or other vital interests of the state;</li> <li>b. conducting security clearance investigations as referred to in the Security Investigations Act;</li> <li>c. promoting measures for the protection of the interests referred to under a, including measures for the protection of information that is to remain secret for reasons of national security, and information pertaining to those parts of the public service and business community that in the opinion of the relevant Ministers are of vital importance for the continued existence of the social order;</li> <li>d. conducting investigations regarding other countries concerning subjects designated by the Prime Minister, Minister of General Affairs, in accordance with the relevant Ministers.</li> </ol> <p><b>Article 7</b></p> <p>2. In the interest of national security the Defence Intelligence and Security Service has the following tasks:</p> <ol style="list-style-type: none"> <li>a. conducting investigations:             <ol style="list-style-type: none"> <li>1. into the potential and the armed forces of other powers, in order to achieve a balanced composition and an effective use of our armed forces;</li> <li>2. of factors that are or may be of influence on maintaining and promoting the international legal system, in so far as the armed forces are, or are expected to become, involved in this;</li> </ol> </li> <li>b. conducting security clearance investigations as referred to in the Security Investigations Act;</li> <li>c. conducting investigations necessary for taking measures:             <ol style="list-style-type: none"> <li>1. to prevent activities aimed at damaging the security or readiness of the armed forces;</li> <li>2. to promote a proper organisation of the mobilisation and concentration of the armed forces;</li> <li>3. for a smooth preparation and deployment of the armed forces as referred to in part a, under article 20.</li> </ol> </li> <li>d. promoting measures to protect the interests referred to under c, including measures to protect information concerning the armed forces the secrecy of which is required;</li> </ol>

	<p>e. conducting investigations concerning other countries, regarding matters with military relevance that have been designated by the Prime Minister, Minister of General Affairs in accordance with the relevant Ministers.</p> <p><b>Article 9</b></p> <ol style="list-style-type: none"> <li>1. The functionaries of the services have no powers to investigate offences.</li> <li>2. The functionaries referred to in Article 60 when conducting activities in the sense of said Article, will not exercise any powers to investigate offences.</li> </ol>
<p><b>Information collection powers</b></p>	<p><b>Article 12</b></p> <ol style="list-style-type: none"> <li>1. The services are authorised to process information with due observance of the requirements set by or in accordance with this Act or by or in accordance with the Security Investigations Act.</li> <li>2. Processing information takes place exclusively for a specific purpose and only in so far as necessary for the proper implementation of this Act or the Security Investigations Act.</li> <li>3. Processing information takes place in accordance with the law and with proper and due care.</li> <li>4. The information processed in the context of the performance of the services is provided with an indication of the degree of reliability or a reference to the document or source from which the information is derived.</li> </ol> <p><b>Article 17</b></p> <ol style="list-style-type: none"> <li>1. In performing their tasks, or in order to support a proper performance of their duties, the services, in order to collect information, are authorized to apply to:             <ol style="list-style-type: none"> <li>a. administrative bodies, public servants and furthermore any persons deemed capable of providing the necessary information;</li> <li>b. the person responsible for processing specific information.</li> </ol> </li> <li>2. In the case referred to in the first paragraph, opening words and under b, the public servant charged with the matter is obliged to prove his identity to the person responsible for the processing of information in a specific case, on the basis of an identity card provided by the relevant head of a service.</li> <li>3. The provisions in force for the person responsible for processing information in a specific case regarding the furnishing of such information do not apply if such information is furnished pursuant to a request as referred to in the first paragraph, opening words and under b.</li> </ol> <p><b>Article 18</b></p> <p>A power as referred to in this section may only be exercised in so far as necessary for a proper performance of the tasks as referred to in Article 6, second paragraph, under a and d, and the tasks as referred to in Article 7, second paragraph, under a, c, and e.</p> <p><b>Article 19</b></p> <ol style="list-style-type: none"> <li>1. Exercising a power as referred to in this section by a service is permitted only if, in so far as this section does not provide otherwise, the relevant Minister or the relevant head of a service on behalf of this Minister, has given permission for this.</li> </ol>

2. The head of a service can, by written decision, appoint subordinate functionaries to grant the permission referred to in the first paragraph on his behalf. A copy of the decision is sent to the relevant Minister.
3. The permission is granted, in so far as not otherwise provided by law, for a period of a maximum of three months and can each time be extended in response to a request to that effect for a similar period at a time.

**Article 20**

1. The services are authorised to:
  - a. conduct surveillance and within this context record information relating to the actions of natural persons or information relating to objects, whether or not with the aid of observation and registration instruments;
  - b. trace and within this context record information relating to natural persons or information relating to objects, whether or not with the aid of tracing instruments, location positioning equipment and registration instruments.
2. Using observation and registration instruments as referred to in the first paragraph, under a, and installing tracing instruments, location positioning equipment and registration instruments as referred to in the first paragraph under b by the Defence Intelligence and Security Service is only permitted, in so far as this concerns the use or installation of such instruments or equipment in enclosed spaces not in use by the Ministry of Defence, if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. Using observation and registration instruments as referred to in the first paragraph, under a within dwellings is permitted only if the relevant Minister has given the head of the service written permission to do so. In the case referred to in the second paragraph permission is granted, in so far as dwellings are concerned, by the Minister of the Interior and Kingdom Relations
4. The request for permission as referred to in the third paragraph is made by the head of the service and contains at least:
  - a. the address of the dwelling in which the instrument is to be used;
  - b. a description of the type of instrument to be used;
  - c. the reason why the use of the relevant instrument is deemed necessary.

**Article 21**

1. The services are authorised to:
  - a. deploy natural persons, whether or not under cover of an assumed identity or capacity, who, under the responsibility and on the instruction of a service, are charged with:
    1. collecting in a directed way information relating to persons and organizations that can be relevant to the performance of the tasks of a service;
    2. promoting or taking measures to protect the interests attended to by a service.
  - b. setting up and using legal entities in support of operational activities.
2. The relevant Minister can instruct in writing the relevant administrative bodies to co-operate in so far as necessary to provide a natural person as referred to in the first paragraph, under a with an assumed identity. The statutory provisions in force for the administrative body relating to the activities requested, will not

apply in so far as these provisions are in conflict with the execution of such activities.

3. The natural person referred to in the first paragraph under a can receive instructions from the service to perform activities that may result in rendering assistance in the committing of an offence or in committing an offence. An instruction as referred to in the first sentence is only issued if a proper performance of the duties of the service or the safety of the relevant natural person so require.
4. The natural person referred to in the first paragraph, under a, in carrying out the instruction is not permitted to get someone, due to the first person's actions, to carry out other actions regarding the devising or committing of offences than those actions the second person was intending to carry out already.
5. On issuing the instruction referred to in the third paragraph, the person in question will be instructed:
  - a. under which circumstances it is permitted to carry out activities pursuant to the instruction that may result in rendering assistance in the committing of an offence or in committing an offence;
  - b. how the instruction is to be executed, including the nature of the activities that will be carried out by the person in question, in so far as these activities can be foreseen on issuing the instruction.
6. The instruction to a natural person as referred to in the first paragraph, under a, is recorded in writing.
7. By or in accordance with an Order in Council, on the joint recommendation of the relevant Ministers and the Minister of Justice, further rules can be laid down regarding:
  - a. the conditions under which and the cases in which a natural person as referred to in the first paragraph, under a, is permitted to carry out activities pursuant to the instruction that may result in rendering assistance in the committing of an offence or in committing an offence;
  - b. how the execution of the relevant power is supervised.
8. Article 29, first and second paragraph of the Government Accounting Act does not apply to the formation of a legal entity as referred to in the first paragraph, under b.

**Article 22**

1. The services are authorised, with or without the aid of a technical instrument to:
  - a. to conduct a search of enclosed spaces;
  - b. to search closed objects;
  - c. conduct an investigation of objects aimed at establishing a person's identity.
2. The execution of the power referred to in the first paragraph by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, is only permitted if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. If required for an investigation carried out by a service, an object found in the course of the execution of the power referred to in the first paragraph can be removed for a limited time by the service in question, in so far as examination



of the relevant object at the site of the search is impossible and the intended collection of information cannot be accomplished in any other, less intrusive manner. The object in question will be replaced as soon as possible, unless this conflicts with a proper performance of the duties of the service or no reasonable interest is served by replacing the object.

4. The power referred to in the first paragraph, under a, may only be exercised, in so far as it concerns dwellings, if the relevant Minister has given the head of the service written permission to do so. The execution of the power referred to in the first paragraph, under a, by the Defence Intelligence and Security Service relating to dwellings outside of places in use by the Ministry of Defence, is only permitted if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations.
5. The permission referred to in the fourth paragraph is granted for a maximum period of three days. The General Extension of Time-limits Act does not apply.
6. The request for permission as referred to in the fourth paragraph is made by the head of the service and contains at least:
  - a. the address of the dwelling that is to be searched, and
  - b. the reason why the dwelling is to be searched.

### **Article 23**

1. The services are authorised to open letters and other consignments without the consent of the sender or the addressee, provided the District Court at The Hague, on the request of the head of the service, has given a mandate to do so.
2. For the execution of the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
3. The request referred to in the first paragraph by the head of the Defence Intelligence and Security Service regarding letters and other consignments of which the sender or addressee's address does not correspond with an address of a place in use by the Ministry of Defence, is made in accordance with the head of the General Intelligence and Security Service.
4. The request for a mandate as referred to in the first paragraph contains at least:
  - a. the name and the address of the person or organisation to whom or to which letters or other consignments are addressed or from whom or which letters or other consignments originate that are to be opened;
  - b. the reason why the letters or other consignments should be opened.
5. A mandate is only given if this is necessary for a proper performance of the duties of the service.
6. A mandate as referred to in the first paragraph is given:
  - a. by letter or other consignment, if this is already in the possession of the service;
  - b. for a period to be stated in the mandate of a maximum of three months if it concerns opening letters or other consignments that are or will be entrusted to a postal institution or transport company stated in the mandate.
7. The postal institution or transport company referred to in the sixth paragraph, under b, is obliged to surrender against receipt the letters and other consignments relating to the mandate to a functionary of the service designated for this purpose by the head of the service.
8. The functionary is obliged to prove his identity to the postal institution or transport company on the basis of an identity card provided by the head of the service.



9. The services ensure that the letter or other consignment surrendered by the postal institution or transport company after the investigation of such letter or consignment will immediately be returned to the relevant postal institution or transport company in order to be forwarded.

**Article 24**

1. The services are authorised, whether or not using technical instruments, false signals, false keys or false identities, to enter an automated work. The powers referred to in the first sentence, also include the power:
  - a. to penetrate any security;
  - b. to introduce technical devices to undo the encryption of data stored or processed in the automated work;
  - c. to copy the data stored or processed in the automated work.
2. The execution of the power as referred to in the first paragraph by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, is only permitted if permission to that end is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. Any person who has knowledge of the undoing of the encryption of the data stored or processed in the automated work as referred to in the first paragraph, is obliged upon the written request of the head of the service to provide all the co-operation necessary in order to undo the encryption.

**Article 25**

1. The services are authorised, with the aid of a technical device, to intercept, receive, record and monitor in a directed way any form of conversation, telecommunication or data transfer by means of an automated work, irrespective of where this takes place. The powers referred to in the first sentence include the power to undo the encryption of the conversations, telecommunication or data transfer.
2. The power referred to in the first paragraph may only be exercised if a request to that effect has been granted to the head of the service.
3. The execution of the power as referred to in the first paragraph by the Defence Intelligence and Security Service regarding conversations, telecommunication or data transfer by means of an automated work, in so far as this does not take place in or regarding places in use by the Ministry of Defence, is only permitted if permission to that end is granted in accordance with the Minister of the Interior and Kingdom Relations.
4. The request for permission as referred to in the second and third paragraphs is made by the head of the service and contains at least:
  - a. an indication of the power the service wishes to exercise and, in so far as applicable, the number as referred to in Article 1.1, under t, of the Telecommunication Act;
  - b. information regarding the identity of the person or organisation involved in connection with whom or which the power to be exercised is requested;
  - c. the reason why the power in question that is to be exercised is requested.
5. If at the time of the request for permission the number as referred to in the fourth paragraph, under a, is not yet known, permission will be granted only

on the condition that the power may only be exercised once the number in question is known. The services are authorised to use a technical device in order to obtain the number referred to in the first sentence. The execution of the power as referred to in the second sentence by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, takes place in accordance with the Minister of the Interior and Kingdom Relations.

6. If at the time of the request for permission the information as referred to in the fourth paragraph, under b, is not yet known, permission will only be granted on the condition that the information in question is supplemented as quickly as possible.
7. Any person who has knowledge of the undoing of the encryption of conversations, telecommunication or data transfer as referred to in the first paragraph, is obliged upon the written request of the head of the service to give all the co-operation necessary in order to undo the encryption.
8. The third paragraph does not apply to the directed reception and recording of non-cable-bound telecommunication originating from or intended for other countries, on the basis of a technical characteristic. In so far as this telecommunication relates to military message traffic no permission is required as referred to in the Articles 19 and 25, second paragraph.

#### **Article 26**

1. The services are authorised, with the aid of a technical device, to receive and record non-cable-bound telecommunication originating from or intended for other countries, on the basis of a technical characteristic to monitor the communication. The services are authorised to take cognizance of the information received in this context. The powers as referred to in the first sentence include the power to undo the encryption of the telecommunication.
2. For exercising the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
3. As soon as, due to exercising the power as referred to in the first paragraph, the identity has been established of the person or organisation from whom or from which the telecommunication originates, this can be recorded if this is necessary for a proper performance of the duties by the service.
4. As soon as, due to exercising the power as referred to in the first paragraph, the identity has been established of the person or organisation from whom or from which the telecommunication originates, a request for permission as referred to in Article 25, second paragraph will be submitted within two days, if the reception and recording of the telecommunication of the person or organisation in question is necessary for a proper performance of the duties by the service. Until the moment the permission as referred to in Article 25, second paragraph is granted, no further cognizance is taken of the recorded telecommunication.
5. If the reception and recording of the telecommunication of the person or organisation in question is not necessary for a proper performance of the duties by the service, the information received and recorded in accordance with the first paragraph will immediately be destroyed.

#### **Article 27**

1. The services are authorised, with the aid of a technical device, to receive and record non-specific non-cable-bound telecommunication. The powers as

- referred to in the first sentence include the power to undo the encryption of the telecommunication.
2. For exercising the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
  3. The information collected due to exercising the power as referred to in the first paragraph, can be selected by the services on the basis of:
    - a. information regarding the identity of a person or an organisation;
    - b. a number as referred to in Article 1.1, under t, of the Telecommunication Act, or any technical characteristic;
    - c. catchwords related to a subject described in more detail.
  4. The permission for the selection as referred to in the third paragraph, under a and b, is granted by the Minister of the Interior and Kingdom Relations to the head of the service in response to a request to that effect for a period of three months maximum and can each time be extended in response to a request to that effect. The request for permission contains at least:
    - a. the information as referred to in the third paragraph, under a or b, on the basis of which the selection will take place;
    - b. the reason why the selection will take place;
  5. The permission for the selection on the basis of catchwords as referred to in the third paragraph, under c, is granted by the relevant Minister to the head of the service in response to a request to that effect for a maximum period of one year and can each time be extended in response to a request to that effect. The request for granting permission contains at least:
    - a. a detailed description of the subject;
    - b. the reason why the selection is to be made.
  6. Article 19 applies to determining the catchwords related to a subject, on the understanding that in the third paragraph of Article 19 'three months' is read as: one year.
  7. When permission as referred to in the fifth paragraph is granted, this is confidentially reported together with the subject and the reason of the selection to one or both chambers of the States General and the supervisory committee.
  8. In so far as the selection as referred to in the third paragraph takes place by the Defence Intelligence and Security Service regarding telecommunication originating from and intended for the Netherlands, the relevant permission is granted in accordance with the Minister of the Interior and Kingdom Relations.
  9. Information collected in the course of exercising the power as referred to in the first paragraph, may, in so far as the information has not been selected, be retained for a maximum period of one year in order to enable a further selection, on the understanding that this:
    - a. may only take place within the context of an investigation by a service on the basis of a reason as referred to in the fourth paragraph, under b, or relating to a subject as referred to in the fifth paragraph, under a, for which at the moment of the reception and recording of the information in question permission had been granted, and
    - b. is urgently required for a proper execution of the investigation in question.
  10. The ninth paragraph applies by analogy to information the encryption of which has not yet been made undone, on the understanding that the period as referred to in the ninth paragraph will only start from the moment the encryption has been made undone.

**Article 28**

1. The services are authorised to turn to providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act with the request to furnish information relating to all the traffic that has taken place or will take place via a public telecommunication network or by means of public telecommunication services in respect of the number stated in the request, or a number belonging to a person or organisation stated in the request. The services are authorized to use a technical device in order to obtain the number as referred to in the first sentence.
2. For the execution of the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
3. The request is made in writing by the head of the relevant service and contains:
  - a. the number as referred to in Article 1.1, under t, of the Telecommunication Act, or
  - b. information relating to the name and domicile or residence of the person, or the registered office of the organisation to whom or to which the number as referred to under a, belongs, and
  - c. a description of the type of information to be provided and
  - d. the period to which the information to be provided refers.
4. The request as referred to in the first paragraph by the head of the Defence Intelligence and Security Service regarding traffic that has not taken place or will not take place in or regarding places in use by the Ministry of Defence, is made in accordance with the head of the General Intelligence and Security Service.
5. The information as referred to in the first paragraph is in any case understood to include:
  - a. numbers as referred to in Article 1.1, under t, of the Telecommunication Act with which a call was or is made or a connection was or is made from the number stated in the request, and the numbers with which a call was or is made or a connection was or is made with the numbers stated in the request;
  - b. information regarding the identity of the person or organisation to whom or to which the number referred to under a belongs;
  - c. the starting time, duration and termination time of the call or connection.
6. The providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act are obliged to immediately provide the information requested, in so far as the request does not state otherwise.
7. For the furnishing of information pursuant to a request as referred to in the first paragraph, Article 17, third paragraph will apply by analogy.

**Article 29**

1. The services are authorised to turn to providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act with the request to furnish information relating to:
  - a. the name and the registered domicile or residence of the person, or the registered office of the organisation to whom or to which the number as referred to in that act and as stated in the request, belongs;
  - b. the number as referred to in that act and the registered domicile or residence of the person, or the registered office of the organisation.

2. For exercising the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
3. The request is made by or on behalf of the head of the relevant service.
4. The providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act are obliged to immediately provide the information requested, in so far as the request does not state otherwise.
5. For the furnishing of information pursuant to a request as referred to in the first paragraph, Article 17, third paragraph will apply by analogy.

**Article 30**

1. The services have access to all places in so far as this is in reasonableness necessary:
  - a. to install observation and registration instruments as referred to in Article 20, first paragraph, under a;
  - b. to install tracing instruments, location positioning equipment and registration instruments as referred to in Article 20, first paragraph, under b;
  - c. to exercise the power as referred to in Article 22, first paragraph, under a;
  - d. to exercise the power as referred to in Article 24;
  - e. to exercise the power as referred to in Article 25;
  - f. to collect as regards the telecommunication equipment present the information necessary in order to exercise the power for which permission has been granted in accordance with Article 25, sixth paragraph.
2. For the execution of the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
3. Exercising the power as referred to in the first paragraph is permitted only by persons designated to do so by the head of a service.
4. Article 1, first, second and third paragraphs and Article 2, first paragraph, last sentence of the General Act on Entry into Dwellings do not apply. The relevant Minister or the head of a service on behalf of the relevant Minister is authorised to grant an authorisation as referred to in Article 2 of the General Act on Entry into Dwellings. In the cases as referred to in the first paragraph, under a and c, the permission pursuant to the relevant Articles in connection with exercising the power to enter dwellings, also counts as authorisation in the sense of Article 2 of the General Act on Entry into Dwellings.

**Article 31**

1. Exercising the power as referred to in this section is permitted only if the intended collection of information cannot take place or cannot take place in time by consulting publicly accessible sources of information or sources of information for which the service has been granted a right to inspect the information contained in said sources.
2. If it has been decided to collect information by exercising one or more powers as referred to in this paragraph, only that power will be exercised that in view of the circumstances of the case, including the seriousness of the threat to the interests protected by a service, also in comparison with other available powers, will cause least harm to the person involved.

3. A power will not be exercised if the execution of said power will result in disproportionate harm to the person involved in comparison with the intended objective of the action.
4. The execution of a power must be proportionate to the intended objective of the action.

**Article 33**

When a power as referred to in this section is exercised, a written report will be made of the event.

**Article 34**

1. Five years after a special power as referred to in the Articles 23, first paragraph, 25, first paragraph, 27, third paragraph, under a and b, and Article 30, first paragraph, in so far as a dwelling has been entered without the permission of the occupant, has been exercised and subsequently once every year, the relevant Minister will examine whether a report of the event can be submitted to the person with regard to whom one of these special powers has been exercised. If this is possible, this will take place as soon as possible.
2. If it is not possible to submit a report to the person with regard to whom the special power as referred to in the first paragraph has been exercised, the supervisory committee will be informed accordingly. The notification to the committee will state the grounds on the basis of which the report cannot be submitted.
3. The report will be in writing and contain exclusively:
  - a. information regarding the identity of the person in question;
  - b. an indication of the special power as referred to in the first paragraph that has been exercised with regard to the person in question;
  - c. the person or body that has granted permission, authority or a mandate for the execution of the special power;
  - d. the date on which permission, authority or a mandate for the execution of the special power was granted;
  - e. the period during which the special power was carried out and, if the execution of the special power concerned the entering of a dwelling without the permission of the occupant, an indication of the dwelling entered.
4. In so far as the execution of the special power concerns the entering of a dwelling without the permission of the occupant, Article 10, second paragraph, of the General Act on Entry into Dwellings will not apply.
5. The obligation to submit a report as referred to in the first paragraph will lapse the moment it is determined that this in reasonableness is not possible.
6. Submitting a report to the person in question is postponed if the relevant special power was exercised within the context of an investigation in view of which, had the person in question at the moment of the investigation submitted a request as referred to in Article 47, furnishing the information to this person would have to be refused in accordance with Article 53.
7. The obligation as described in the first paragraph to examine whether a report can be submitted, will lapse if submitting a report on the execution of the relevant special power can reasonably be expected to result in:
  - a. sources of a service, including intelligence and security services of other

	<p>countries, being disclosed;</p> <p>b. relations with other countries and international organisations being seriously damaged;</p> <p>c. a specific use of a method of a service or the identity of a person who has assisted the relevant service in using the method, being disclosed.</p>
<p><b>Management and use of personal data</b></p>	<p><b>Article 13</b></p> <p>1. The General Intelligence and Security Service may only process personal data relating to persons:</p> <ol style="list-style-type: none"> <li>who give cause to serious suspicion for being a danger to the democratic legal system, or to the security or other vital interests of the state;</li> <li>who have given permission for a security clearance investigation;</li> <li>for whom this is necessary within the context of the investigations regarding other countries;</li> <li>about whom information has been obtained by another intelligence or security service;</li> <li>whose data are necessary to support a proper performance of its duties by the service;</li> <li>who are currently or have been employed by a service.</li> </ol> <p>2. The first paragraph is applicable by analogy to the Defence Intelligence and Security Service on the understanding that the above paragraph 1 sub a is read as: who give cause to serious suspicion for being dangerous to the security or the readiness of the armed forces.</p> <p>3. There is no processing of personal data on the basis of a person's religion or convictions about life, or on the basis of his race, health and sexual life.</p> <p>4. Processing of personal data relating to the characteristics referred to in the third paragraph will only take place supplementary to the processing of other information and only in so far as it is inevitable for the purpose of processing the information.</p> <p><b>Article 14</b></p> <p>1. The Articles 12, 13, first, third and fourth paragraphs are also applicable to processing information for the General Intelligence and Security Service by the functionaries referred to in Article 60.</p> <p>2. Processing of information as referred to in the first paragraph for the General Intelligence and Security Service will remain strictly separated from the processing of information by the relevant functionaries for other purposes. The head of the General Intelligence and Security Service can give further instructions on this matter.</p> <p>3. The Minister of the Interior and Kingdom Relations is responsible for the archive documents relating to the processing of information for the General Intelligence and Security Service by the functionaries referred to in Article 60, in so far as these archive documents have not been transferred to a depository belonging to the national archives.</p> <p><b>Article 43</b></p> <p>1. Information that, in view of the purpose for which it is processed, is no longer</p>



meaningful, will be removed.

2. If it appears that the information is incorrect or is wrongfully processed, the information will be corrected or removed. The relevant Minister will as soon as possible notify the persons to whom the information has been furnished.
3. The information removed will be destroyed, unless this is in conflict with statutory provisions on the retention of information.
4. If regarding the information eligible for destruction a request as referred to in Article 47 has been made, the destruction of the information in question is suspended at least until an irrevocable decision has been reached on the request. In so far as the request is granted, the information in question will not be destroyed until the person in question has been able to inspect the information in accordance with Article 47, second paragraph.

#### **Article 44**

1. In derogation of Article 12, first paragraph, of the Public Records Act 1995 only the archive documents as referred to in Article 1, opening words, section c, under 1°, 2° and 4°, of the Public Records Act 1995 are transferred to an archive depository that are older than twenty years and of which the relevant Minister, after having gained advice from the custodian of said archive depository, has determined that regarding to the information no restrictions as to public access should be applied in view of the interests of the state or one of its allies.
2. The restrictions referred to in the first paragraph do not refer to archive documents that are older than seventy-five years, unless the relevant Minister, in accordance with the opinion of the Council of Ministers, decides otherwise.

#### **Article 45**

Without prejudice to the inspection of the information provided on the basis of section 3.3, the information processed by or on behalf of a service can only be inspected in accordance with the provisions laid down in this chapter.

#### **Article 46**

In this chapter the meaning of, document, administrative matter, internal consultation, personal interpretation of a policy, official advisory committee or mixed advisory committee will be the meaning referred to in Article 1 of the Freedom of Information Act.

#### **Article 47**

1. The relevant Minister will inform anyone at his request as soon as possible but at the latest within three months whether, and if so which, personal data relating to this person have been processed by or on behalf of a service. The relevant Minister may adjourn his decision for four weeks at the most. A motivated written notification of the adjournment will be made to the person who has made the request before the expiration of the first term.
2. In so far as a request referred to in the first paragraph is conceded to, the relevant Minister will as soon as possible but no later than four weeks following the notification of his decision, give the person who has made the request the opportunity to inspect the information concerning him.



3. The relevant Minister will ensure that the identity of the person making the request is properly established.

**Article 48**

1. The person who pursuant to Article 47 has inspected processed information concerning him by or on behalf of a service may submit a written statement with respect to this. This statement will be added to the relevant information.
2. When the person inspects the information concerning himself, the provision laid down in the first paragraph will be pointed out to him.
3. The statement will be removed and destroyed at the same time as the information to which the statement relates, is removed and destroyed.

**Article 49**

1. In derogation of Article 47 the head of a service will enable as soon as possible but no later than four weeks after such a request, a person working with or on behalf of a service or a person who has worked with or on behalf of a service who has made a request to this end, to inspect the information concerning him in the personnel and salary administration of the relevant service.
2. Not open for inspection is information that may lead to sources that must be kept secret.
3. In derogation of Article 2:1, first paragraph of the General Administrative Law Act the head of a service may state that inspection of the information is reserved to the relevant person personally.
4. The person who has inspected the data concerning himself may submit a written request to the head of the service to improve, supplement or remove information if this is incorrect, incomplete for the purposes for which it is used or if it is not relevant or if it has been processed in violation of any statutory provision. The request concerns the alterations to be applied.
5. The head of a service will inform the person making the request within six weeks after receiving the request referred to in the fourth paragraph, whether or to what extent he will comply with the request.
6. Article 56 is not applicable.

**Article 50**

1. Article 47 applies by analogy to a request concerning personal data processed by or on behalf of a service with respect to a deceased spouse, a registered partner, a child or a parent of the person making the request.
2. The request referred to in the first paragraph will at least contain the following information:
  - a. name and initials of the deceased person;
  - b. date and place of birth of the deceased person;
  - c. date and place of death;
  - d. the nature of the relationship of the deceased person to the person making the request.
3. In cases in which the request referred to in the first paragraph relates to the data of a person who is still alive or to the data of a deceased person who is not

related to the person making the request as a spouse, a registered partner, a child or a parent, the request will be disallowed.

**Article 51**

1. The relevant Minister will inform anyone at his request as soon as possible but at the latest within three months whether information other than the personal data concerning the administrative matter referred to in the request, can be inspected. The relevant Minister may adjourn his decision for a maximum of four weeks. The person making the request will receive a reasoned notification of the adjournment in writing before the expiration of the first term.
2. In so far as a request referred to in the first paragraph is complied with the relevant Minister will provide the person making the request with the relevant information as soon as possible but no later than within four weeks after the notification of his decision.

**Article 52**

1. The relevant Minister will provide the relevant information to the person making the request by:
  - a. providing a copy of the document containing the information or by supplying its literal contents in another form,
  - b. permitting inspection of the contents of the relevant document,
  - c. providing an extract or a summary of the contents of the relevant document, or
  - d. supplying information laid down in the relevant document.
2. In choosing the form in which the data are provided the relevant Minister will take into account the preferences of the person making the request and the interests of the service.
3. For making copies of documents and extracts or summaries of the contents thereof a reimbursement can be asked from the person making the request. The provisions of or pursuant to Article 12 of the Freedom of Information Act are also applicable.

**Article 53**

1. A request as referred to in Article 47 will in any case be dismissed if:
  - a. within the context of any investigation information has been processed concerning the person making the request, unless:
    1. the relevant information was processed more than 5 years ago,
    2. since then with regard to the person making the request no new information has been processed in connection with the investigation pertaining to which the relevant information has been processed, and
    3. this information is not relevant to any current investigation;
  - b. no information has been processed with regard to the person making the request.
2. If a request pursuant to the first paragraph is dismissed, the general grounds for the dismissal stated in the first paragraph will only be referred to in general terms.

**Article 54**

Article 53 applies by analogy to a request as referred to in Article 50 on the understanding that 'the person making the request' in Article 53 is read as 'the deceased person'.

**Article 55**

1. A request as referred to in Article 51 will be dismissed in so far as furnishing the information pertaining to the request:
  - a. may endanger the unity of the Crown;
  - b. may harm national security;
  - c. concerns company or manufacturing details that have been provided confidentially to the authorities by natural persons or legal entities.
2. A request will also be dismissed in so far as the importance of furnishing the information pertaining to the request is outweighed by the following interests:
  - a. the relations between the Netherlands and other countries and international organisations;
  - b. the economic or financial interests of the state, the other public-law corporations or administrative bodies;
  - c. the investigation and prosecution of offences;
  - d. inspection, control and supervision by or on behalf of administrative bodies;
  - e. the due regard for individual privacy;
  - f. the interests of a person or an organisation to which the information relates to be the first to take cognisance of the information;
  - g. preventing disproportionate preference or prejudice of the natural persons or legal entities or third parties involved in the matter.
3. If a request for inspection is dismissed the supervisory committee will be informed of this. The notification to the committee will state the grounds on the basis of which the request has been dismissed.
4. The preceding paragraphs apply by analogy to a request as referred to in Article 47 and Article 50 respectively, in so far as such a request is not dismissed in accordance with Article 53 or Article 54 respectively.

**Article 56**

1. If the request pertains to information contained in documents drawn up for internal consultations, no information shall be provided on any personal policy statements these may include.
2. With a view to a proper and democratic operational management information on personal policy statements may be supplied in a form that does not disclose the person who has made the statement. If the person making the statement or declaring himself in favour of the statement gives his approval, the information may be supplied in a form that discloses this person.
3. With respect to advice from an official advisory committee or mixed advisory committee information may be provided that contains personal policy statements if prior to the commencement of their activities the members of the advisory committee have been informed by the administrative body directly concerned with this matter of the intention to do so.

	<p><b>Article 57</b></p> <p>In derogation of Article 8:7 of the General Administrative Law Act for an appeal against decisions in accordance with this chapter the competent court will be the District Court at The Hague.</p>
<p><b>Co-operation and information sharing with domestic and foreign bodies</b></p>	<p><b>Article 36</b></p> <ol style="list-style-type: none"> <li>1. Within the context of a proper performance of the duties of the service, the services are authorised to notify the following parties regarding information processed by or on behalf of the service:             <ol style="list-style-type: none"> <li>a. the relevant Ministers;</li> <li>b. other relevant administrative bodies;</li> <li>c. other relevant persons or bodies;</li> <li>d. the appropriate intelligence and security services of other countries, and the appropriate international security, signals intelligence and intelligence bodies.</li> </ol> </li> <li>2. A notification as referred to in the first paragraph is given by the relevant Minister if the nature of the notification gives cause for this.</li> <li>3. Without prejudice to the notification as referred to in the first paragraph, notification of information processed by the services may only take place in the cases provided by this act.</li> </ol> <p><b>Article 37</b></p> <ol style="list-style-type: none"> <li>1. Furnishing of information can take place on the condition that the person to whom the information is furnished will not furnish the information to other parties.</li> <li>2. The condition as referred to in the first paragraph is always stipulated when information is furnished to a body as referred to in Article 36, first paragraph, under d.</li> <li>3. If information is furnished on the condition that this may not be furnished to other parties, the relevant Minister or the head of the service on behalf of the relevant Minister, may still grant permission to furnish information to other persons or bodies. Conditions can be attached to such permission.</li> </ol> <p><b>Article 38</b></p> <ol style="list-style-type: none"> <li>1. If during the processing of the information by or on behalf of a service it appears that certain information may also be relevant to the investigation or prosecution of offences, the relevant Minister or the head of a service on behalf of the relevant Minister, can, without prejudice to the situation that there is a statutory obligation to do so, give a written notification to the appropriate officer of the Public Prosecutions Department.</li> <li>2. In urgent cases the notification as referred to in the first paragraph can take place orally. The relevant Minister or the head of a service on behalf of the relevant Minister will confirm in writing the notification in question as soon as possible.</li> <li>3. On a request from the appropriate officer of the Public Prosecutions Department all the information on which the notification is based and which is necessary in order to assess the correctness of the notification, may be inspected. The Articles 85 and 86 are applicable by analogy.</li> </ol>

**Article 39**

1. Without prejudice to the provisions of Article 38 it is furthermore possible, if during processing information by or on behalf of a service an urgent and serious reason to do so emerges, to give written notification of information to persons or bodies designated by Order in Council and involved in the execution of a public task, in so far as this information can be relevant for the promotion of the interests entrusted to such persons or bodies in such a context.
2. Article 40, second and third paragraphs are applicable by analogy.
3. The proposal for an Order in Council to be drawn up in accordance with the first paragraph is not made any earlier than four weeks after the draft of such an Order in Council has been submitted to the two Chambers of the States General.

**Article 40**

1. Notification of personal data takes place in writing by the relevant Minister or the head of the service on behalf of the relevant Minister if the person or body to whom or to which the notification in question is made as a result of such notification is authorised to take measures towards the person in question.
2. In urgent cases the notification as referred to in the first paragraph can take place orally. The relevant Minister or the head of the service on behalf of the relevant Minister will confirm in writing the notification in question as soon as possible.
3. The relevant Minister or the head of the service on behalf of the relevant Minister can allow a person or body inspection of the information on which the notification is based, in so far as this is necessary in order to assess the accuracy of the notification. The Articles 85 and 86, second and third paragraphs, apply by analogy to the persons and bodies allowed to inspect the information in question.

**Article 41**

1. Furnishing personal data the accuracy of which cannot in reasonableness be established or that have been processed longer than 10 years ago, while no new information regarding the person in question has been processed since that time, will not take place.
2. In derogation of the first paragraph, information on personal data may only be furnished to:
  - a. a service or a body as referred to in Article 36, first paragraph, under d;
  - b. bodies entrusted with the investigation and prosecution of offences;
  - c. other bodies in special cases to be determined by the relevant Minister.
3. When information is furnished as referred to in the second paragraph, the degree of reliability and the period over which the information was developed on which the notification is based, is stated. If regarding the information in question a statement as referred to in Article 48, first paragraph, is available, this will be furnished simultaneously.
4. Article 40, third paragraph, applies by analogy.

**Article 42**

A record is kept of the furnishing of personal data.

**Article 58**

1. The General Intelligence and Security Service and the Defence Intelligence and Security Service shall render one another their assistance whenever possible.
2. The co-operation referred to in the first paragraph will in any way consist of:
  - a. furnishing information;
  - b. granting technical and other forms of support within the context of the use of special powers as referred to in section 3.2.2.
3. A request for assistance as referred to in the second paragraph, under b, will be signed by the relevant Minister and will contain an accurate description of the activities required. The relevant Minister who has requested the co-operation, shall be responsible for the actual execution of the activities to be carried out.

**Article 59**

1. The heads of services are responsible for maintaining relations with the appropriate intelligence and security services of other countries.
2. Within the context of maintaining relations as referred to in the first paragraph information may be provided to these services for the purpose of the interests served by these services, in so far as:
  - a. these interests are not incompatible with the interests served by the services, and
  - b. a proper performance of the duties does not dictate otherwise
3. The articles 37, 41 and 42 apply by analogy to the furnishing of information as referred to in the second paragraph.
4. Within the context of maintaining relations as referred to in the first paragraph and upon a written request to that end also technical and other forms of assistance may be rendered to these services for the purpose of the interests to be served by these services, in so far as:
  - a. these interests are not incompatible with the interests served by the services, and
  - b. a proper performance of the duties is not incompatible with the provision of this form of assistance.
5. A request for support as referred to in the fourth paragraph must be signed by the appropriate authority of this service who has the power to do so and must contain an accurate description of the required form of assistance and the reason why this assistance is considered desirable. The assistance requested shall only be granted if the relevant Minister has given permission for this.
6. The relevant Minister may only give a mandate for granting permission as referred to in the fifth paragraph to the head of the service, in so far as it concerns requests of an urgent nature. The relevant Minister will be immediately informed by the head of the service of any permission granted.

**Article 60**

1. The commissioner of a police force, the commander of the Royal Netherlands Military Constabulary, the director-general of the national tax office of the Ministry of Finance perform activities for the General Intelligence and Security Service.
2. The relevant Ministers under whom the functionaries referred to in the first paragraph fall and the regional police force managers respectively, in

	<p>agreement with the Minister of the Interior and Kingdom Relations appoint subordinates of these functionaries to perform the actual execution and supervision of the activities referred to.</p> <ol style="list-style-type: none"> <li>3. The activities referred to in this Article are performed under the responsibility of the Minister of the Interior and Kingdom Relations in accordance with the instructions of the head of the General Intelligence and Security Service.</li> <li>4. With respect to the actions of the police functionaries for the performance of the activities referred to in this article, Chapter IX of the Police Act 1993 is not applicable.</li> </ol> <p><b>Article 61</b></p> <ol style="list-style-type: none"> <li>1. The members of the Public Prosecutions Department through the Board of the procurators general will inform a service of the information brought to their notice if they deem this to be in the interest of this service.</li> <li>2. At all times when the fulfilment of the task of the Public Prosecutions Department and of a service gives rise to this, consultation will take place between a member of the Board of procurators general and the head of the relevant service.</li> </ol> <p><b>Article 62</b></p> <p>The police officers, the functionaries of the national tax office as the competent authorities regarding customs and the functionaries of the Royal Netherlands Military Constabulary will notify the functionary referred to in Article 60, first paragraph, to whom they are a subordinate, of any information brought to their notice which may be of interest to a service.</p> <p><b>Article 63</b></p> <ol style="list-style-type: none"> <li>1. The services are entitled, at the written request by the competent authority, to render technical support to the bodies responsible for the investigation of offences. Article 58, third paragraph, is applicable by analogy.</li> <li>2. The relevant Minister is entitled to refer to the Minister of the Interior and Kingdom Relations with a written request for technical support by the National Police Services to be rendered to the service involved in the execution of its task. Article 58, third paragraph, is applicable by analogy.</li> </ol>
<p><b>Internal management and control</b></p>	<p><b>Article 5</b></p> <p>The heads of the services will assist the co-ordinator in the execution of his tasks. To this end they will provide him will all information necessary.</p> <p><b>Article 15</b></p> <p>The heads of the services are responsible for:</p> <ol style="list-style-type: none"> <li>a. the secrecy of the relevant information;</li> <li>b. the secrecy of the relevant sources from which information is derived;</li> <li>c. the safety of the persons co-operating in the collection of the information.</li> </ol>

	<p><b>Article 16</b> The heads of the services are also responsible for:</p> <ol style="list-style-type: none"> <li>a. the necessary provisions to promote the accuracy and completeness of the information processed;</li> <li>b. the necessary provisions of a technical and organisational nature to protect the processing of information against loss of or damage to information, and against the unauthorised processing of information;</li> <li>c. appointing persons who are exclusively authorised to conduct the activities stated together with the appointment within the context of processing information.</li> </ol>
<p><b>Executive control</b></p>	<p><b>Article 3</b> The relevant Ministers will regularly consult together on their policy regarding the services and the co-ordination of the policy. Other Ministers apart from the relevant Ministers will be invited to participate in these consultations if this is required in view of the interests to be served.</p> <p><b>Article 8</b></p> <ol style="list-style-type: none"> <li>1. Once a year, before 1 May, the relevant Ministers will publicly report simultaneously to the two Chambers of the States General on the way in which the General Intelligence and Security Service and the Defence Intelligence and Security Service have carried out their tasks over the past calendar year.</li> <li>2. The report will in any case include a comprehensive overview of:             <ol style="list-style-type: none"> <li>a. the areas of special attention on which the service has focused its activities over the past year;</li> <li>b. the areas of special attention on which the service will in any case focus its activities in the current year;</li> </ol> </li> <li>3. The public report will in any case not make mention of information that provides insight into:             <ol style="list-style-type: none"> <li>a. resources used by the service in concrete cases;</li> <li>b. secret sources used by the service;</li> <li>c. the service’s current level of knowledge.</li> </ol> </li> <li>4. The relevant Minister can confidentially disclose the information referred to in the third paragraph to either one or both Chambers of the States General.</li> <li>5. Without prejudice to the obligation referred to in the first paragraph, the relevant Ministers will of their own accord inform both Chambers of the States General, if there is reason to do so. The third and fourth paragraphs are applicable by analogy.</li> </ol> <p><b>Article 11</b> The relevant Minister can lay down more detailed rules regarding the organisation, method of working and management of a service.</p>
<p><b>Parliamentary and expert oversight</b></p>	<p><b>Article 64</b></p> <ol style="list-style-type: none"> <li>1. There is a supervisory committee pertaining to the intelligence and security services.</li> <li>2. The supervisory committee is responsible for:</li> </ol>



- a. the supervision of the legality of the execution of the provisions of or in accordance with this act and the Security Investigations Act;
- b. informing and advising, both asked and unasked, the relevant Ministers on any findings by the committee. If so desired, the committee may ask the relevant Ministers to inform either or both of the two Chambers of the States General of this information or advice. The procedure laid down in Article 79 is applicable by analogy;
- c. advising the relevant Ministers on the investigation and assessment of complaints;
- d. rendering unsolicited advice to the relevant Ministers on the execution of Article 34.

**Article 65**

1. The supervisory committee is made up of three members including the chairperson.
2. The members are appointed by Royal Decree on the recommendation of the relevant Ministers collectively for a period of six years and can only be re-appointed once. For the appointment of the members the Second Chamber of the States General will present a list of three candidates for each vacancy from which the relevant Ministers will make their choice. In its recommendation the Second Chamber will take into account, if it deems useful, a list of recommendations drawn up collectively by the Vice President of the Council of State, the President of the Supreme Court of the Netherlands and the National Ombudsman, consisting of at least three persons for each vacancy.
3. The relevant Ministers may request the Second Chamber to produce a new list of candidates.
4. At least two of the three members including the chairperson must have obtained a law doctorate or have the right to carry the title of meester, obtained at a university or at the Open University to which the Higher Education and Scientific Research Act relates.
5. Before accepting their office, the members will before the Prime Minister, Minister of General Affairs:
  - a. take the oath or state and make their solid affirmation that in order to obtain their appointment they have neither directly nor indirectly, under whatever name or under whatever pretences, given or promised anything to anyone and that in order to do or not do anything in their administrative position they have not accepted nor will accept any gift or promise from anyone;
  - b. take the oath or make a solid affirmation of allegiance to the Constitution.
6. The members must have the Dutch nationality.
7. The members occupy no function the execution of which is undesired with a view to a proper fulfilment of their office or with a view to maintaining their impartiality and independence or of the trust in said impartiality and independence.
8. The functions of the members will be made public by the chairperson.

**Article 66**

The members of the supervisory committee will be granted an honourable discharge by Royal Decree and on the recommendation of the relevant Ministers

collectively:

- a. at the request of the person concerned;
- b. when the person concerned is permanently unable to fulfil his function due to an illness or disability;
- c. if the person concerned accepts a function as referred to in Article 65, seventh paragraph;
- d. if the person concerned loses the Dutch nationality;
- e. if the person concerned has been convicted for a criminal offence by a final and conclusive court decision, or if at such decision a measure has been taken that results in deprivation of liberty;
- f. if the person concerned pursuant to a final and conclusive court decision has been placed under tutelage, has been declared bankrupt, has been granted a suspension of payment or has been committed to prison for debt;
- g. if in the opinion of the relevant Ministers collectively, having heard the advice of the Second Chamber of the States General, the person concerned due to acts or omissions causes serious harm to the trust placed in him.

#### **Article 67**

1. The relevant Ministers collectively will suspend a member of the supervisory committee if:
  - a. he is held in pre-trial detention;
  - b. he has been convicted of a criminal offence by a court decision that has not yet become irrevocable, or if a measure has been taken against him at such a court decision that will result in the deprivation of his liberty;
  - c. he has been placed under tutelage, has been declared bankrupt, has been granted suspension of payment or has been committed to prison for debt pursuant to a court order that is not yet final and conclusive;
2. The relevant Ministers collectively may suspend a member of the committee if a preliminary inquiry has been instituted against him on account of a criminal offence or if there is another serious suspicion of the existence of facts or circumstances that could lead to dismissal on other grounds than referred to in Article 66 under b.
3. In the event referred to in the second paragraph, the suspension will end after three months. The relevant Ministers may collectively extend the suspension with a maximum of three months each time. The relevant Ministers will collectively end the suspension if the grounds for the suspension have lapsed.

#### **Article 68**

The remuneration, any claims in case of illness as well as any other rights and obligations relating to the legal position of the members of the supervisory committee will be arranged by Order in Council in cases not provided for by law.

#### **Article 69**

1. The supervisory committee has a secretariat that renders assistance to the supervisory committee.

2. The persons belonging to the secretariat will be appointed, suspended and dismissed by Royal Decree on the recommendation of the relevant Ministers collectively and at the suggestion of the chairperson of the committee.
3. By Royal Decree, on the recommendation of the relevant Ministers collectively, it can be decided in which cases the persons belonging to the secretariat will be appointed, suspended and dismissed by the chairperson of the committee.

**Article 70**

Article 10, first and second paragraph, is applicable by analogy to the members of the supervisory committee and to the persons belonging to the secretariat on the understanding that the discharge referred to in the second paragraph, will be granted by the Prime Minister, Minister of General Affairs.

**Article 71**

For its activities the supervisory committee will draw up rules of procedure. These rules of procedures will be published in the Netherlands Government Gazette.

**Article 72**

The meetings held by the supervisory committee are not open to the public.

**Article 73**

1. The relevant Ministers, the heads of the services, the co-ordinator and furthermore everyone involved in the implementation of this act and the Security Investigations Act will, if requested, furnish all information to the supervisory committee and will render all other assistance the supervisory committee deems necessary for a proper performance of its duties. The supervisory committee will have, upon its request, immediate access to the information processed in the context of the implementation of this act or of the Security Investigations Act.
2. When furnishing information as referred to in the first paragraph, when there is reason for this, it will be indicated which information in the interest of the national security is to be brought to the knowledge of the supervisory committee exclusively.

**Article 74**

1. If deemed necessary for the proper execution of its tasks, the supervisory committee may request the persons referred to in Article 73, first paragraph, as well as other persons to furnish information as a witness or as an expert and may summon these persons to appear before the supervisory committee.
2. The request will be made in writing and will state as far as possible the facts regarding which the witness or expert is to provide information. If the witness or the expert has been summoned to appear before the supervisory committee, the request will also state the place where and time at which this person will be heard and the consequences of non-appearing. The summons to appear will be made by registered letter or by recorded delivery.
3. The witness or the expert is obliged to provide all the information the supervisory committee deems necessary for a proper execution of its tasks and to this end

the witness or expert, if the supervisory committee has indicated this in its request, must appear in person. The person appearing may be represented by a lawyer.

4. The obligation to appear before the committee does not apply to the relevant Ministers. If a Minister does not appear himself, he will appear by representation.
5. If a functionary involved in the implementation of this act appears as a witness or as an expert pursuant to this article, Article 86, second paragraph is not applicable.
6. The supervisory committee may order that persons who, despite being summoned to appear in accordance with the law, do not appear, are brought before the public authorities in order to comply with their obligations.
7. The witness or expert may claim exemption from giving information on account of his professional secrecy but only in so far as this concerns information that has been entrusted to him as such.

#### **Article 75**

1. The supervisory committee may order that witnesses will not be heard before taking the oath or making a solemn affirmation. In this case the witness will take the oath or make a solemn affirmation before the supervisory committee's chairperson stating that he will state the truth and nothing but the truth.
2. The experts are obliged to perform their task impartially and to the best of their knowledge.

#### **Article 76**

1. The supervisory committee is entitled if a proper performance of its tasks so requires, to assign certain activities to experts.
2. The expert who has accepted his assignment, is obliged to perform his task impartially and to the best of his knowledge.

#### **Article 77**

The supervisory committee or a member it has appointed to this end is entitled to enter all places with the exception of a residence without the permission of its occupant, in so far as this is reasonably necessary for the fulfilment of its task. The committee or the appointed member can have himself accompanied by persons of the secretariat appointed by the chairperson as referred to in Article 69.

#### **Article 78**

1. In the context of its supervisory task as referred to in Article 64, second paragraph, sub a, the supervisory committee is entitled to conduct an investigation into the way in which the provisions laid down in this act or the Security Investigations Act, have been acted on.
2. The supervisory committee may also carry out an investigation as referred to in the first paragraph at a request to this end by either of the two Chambers of the States General.
3. The relevant Minister and one or both Chambers of the States General will be informed of an intended investigation, if necessary in confidence.

	<p><b>Article 79</b></p> <ol style="list-style-type: none"> <li>1. The supervisory committee will draw up a supervisory report as a result of the investigation it has performed. The supervisory report is public, except for the information referred to in Article 8, paragraph 3.</li> <li>2. Before adopting the supervisory report, the supervisory committee will give the relevant Minister the opportunity within a term deemed reasonable by the committee to give his response to the findings contained in the supervisory report.</li> <li>3. After receiving the response from the relevant Minister the supervisory committee will adopt the supervisory report. On the basis of its findings the supervisory committee can make recommendations to the relevant Minister regarding any measures to be taken.</li> <li>4. After adoption by the supervisory committee the supervisory report will be sent to the relevant Minister.</li> <li>5. The relevant Minister will send the supervisory report and his response to the two Chambers of the States General within six weeks. Article 8, third and fourth paragraph shall apply by analogy.</li> </ol> <p><b>Article 80</b></p> <ol style="list-style-type: none"> <li>1. Each year before 1 May the supervisory committee will report publicly on its activities. The report will be presented to the two Chambers of the States General and to the relevant Ministers. Article 8, third and fourth paragraph are applicable by analogy.</li> <li>2. The public annual report will be generally available.</li> </ol> <p><b>Article 81</b></p> <ol style="list-style-type: none"> <li>1. Information that is provided to and held by the supervisory committee for the performance of its tasks by the relevant Ministers, the heads of the services, the co-ordinator and by other functionaries involved in the implementation of this act and the Security Investigations Act, is not public.</li> <li>2. Requests to take cognisance of this information or requests for the publication of this information will not be complied with.</li> <li>3. Article 44 is applicable by analogy to the archive material held by the supervisory committee, on the understanding that the relevant Minister is read as: the relevant Minister whom it concerns.</li> </ol> <p><b>Article 82</b></p> <p>The articles 15 and 16 are applicable by analogy to the supervisory committee.</p>
<p><b>Complaints handling</b></p>	<p><b>Article 64</b></p> <ol style="list-style-type: none"> <li>1. There is a supervisory committee pertaining to the intelligence and security services.</li> <li>2. The supervisory committee is responsible for:             <ol style="list-style-type: none"> <li>c. advising the relevant Ministers on the investigation and assessment of complaints;</li> </ol> </li> </ol>

	<p><b>Article 83</b></p> <ol style="list-style-type: none"> <li>1. Each person is entitled to file a complaint with the National Ombudsman on the actions or the alleged actions of the relevant Ministers, the heads of the services, the co-ordinator and the persons working for the services and for the co-ordinator, with respect to a natural person or legal entity in the implementation of this act or the Security Investigations Act.</li> <li>2. Before filing a complaint with the National Ombudsman the person filing the complaint will inform the relevant Minister whom it concerns of the complaint and he will enable him to give his view on the case.</li> <li>3. Before giving his view as referred to in the second paragraph with respect to the complaint the relevant Minister will seek the advice from the supervisory committee. Section 9.3 of the General Administrative Law Act will be applicable. In derogation of Article 9:14, second paragraph of the General Administrative Law Act the relevant Minister cannot give any instructions to the supervisory committee.</li> </ol> <p><b>Article 84</b></p> <ol style="list-style-type: none"> <li>1. The National Ombudsman will render his decision on the complaint in writing to the person filing the complaint and, in so far as the security or other vital interests of the state do not dictate otherwise, state reasons.</li> <li>2. The National Ombudsman will notify in writing the relevant Minister of his decision on the complaint. In this notification the National Ombudsman may state any reasoned recommendations which he deems appropriate. If in his opinion the purport of his recommendations gives rise to this, the National Ombudsman may state these reasons to the person filing the complaint.</li> <li>3. The relevant Minister will inform the National Ombudsman in writing within six weeks of the consequences he attaches to the decision and to the recommendations.</li> <li>4. The relevant Minister will send the decision and recommendations of the National Ombudsman and the consequences that the relevant Minister attaches to these to one or both chambers of the States General. The recommendations made by the National Ombudsman, in so far as these have not also been communicated to the person filing the complaint, as well as the consequences attached to the decision by the relevant Minister, will be communicated confidentially to one or both chambers of the States General.</li> </ol>
<p><b>Personnel</b></p>	<p><b>Article 10</b></p> <ol style="list-style-type: none"> <li>1. A functionary of a service is not permitted, other(wise) than for the performance of his duties, to travel to or stay in:             <ol style="list-style-type: none"> <li>a. a country actually engaged in an armed conflict;</li> <li>b. countries designated by ministerial order by the relevant Ministers in which a stay by a functionary of a service may constitute a special national security risk.</li> </ol> </li> <li>2. The relevant Minister can grant an exemption from the prohibition referred to in the first paragraph, if the urgent personal or other interests of the</li> </ol>

functionary in question so require and provided it is not detrimental to the security or other vital interests of the state.

3. This Article is applicable by analogy regarding the co-ordinator, the functionaries subordinate to the co-ordinator and the functionaries appointed in accordance with Article 60, second paragraph.

**Article 85**

1. Without prejudice to the Articles 98 up to and including 98c of the Criminal Code each person involved in the implementation of this act who acquires information the confidentiality of which he is aware of or should reasonably be aware of, is obliged to secrecy regarding this information except in so far as he is obliged to make this information known pursuant to any statutory provision. This obligation will continue after the involvement in the implementation of this act has ended.
2. Article 272, second paragraph of the Criminal Code is not applicable in case of any acts or omissions in violation of the obligation laid down in the first paragraph.

**Article 86**

1. The obligation to secrecy of a functionary involved in the implementation of this act does not apply to the person to whom the functionary is a direct or indirect subordinate nor in so far as he has been released from this obligation by a person who is his superior.
2. The functionary referred to in the first paragraph who pursuant to a statutory provision is obliged to appear as a witness or as an expert, will only make a statement regarding matters covered by the scope of his obligation to secrecy, in so far as the relevant Minister and the Minister of Justice have collectively relieved him from this obligation in writing. In this context with regard to functionaries who in their capacity have taken cognizance of information that has been provided by a service pursuant to Article 36, first paragraph, under a and b, 'the relevant Minister' will be considered to mean: the relevant Minister under whom the service falls that has provided the information.
3. This Article applies by analogy in the event that the involvement in the implementation of this act has terminated.

**Article 89**

1. Violation of the Articles 23, seventh paragraph, 24, third paragraph, 25, seventh paragraph, 28, sixth paragraph and 29, fourth paragraph, is punishable.
2. Violations of the acts punishable under the first paragraph are criminal offences in so far as these have been committed intentionally. In so far as these are not criminal offences, they are considered minor offences.
3. Violation of the facts punishable under the first paragraph will be punished:
  - a. in case of a criminal offence, by imprisonment of a maximum of two years or a fine of the fourth category;
  - b. in case of a minor offence, by imprisonment of a maximum of six months or a fine of the fourth category.

Other

**Article 35**

Furnishing of information that has been processed by or on behalf of a service to a functionary active within the service or pursuant to Article 60 for the General Intelligence and Security Service, takes place only in so far as this is necessary for a proper execution of the task assigned to the functionary in question.

**Article 87**

1. In administrative procedures concerning the application of this act or of the Security Investigations Act regarding which the relevant Minister or the supervisory committee has been ordered by the District Court pursuant to Article 8:27, 8:28 or 8:45 of the General Administrative Law Act to provide information or submit documents, Article 8:29, third up to fifth paragraph, of this act will not be applicable. If the relevant Minister or the supervisory committee informs the District Court that only the District Court will be entitled to inspect the information or the documents, the District Court may only base its decision on this information or these documents with the permission of the other parties.
2. If the relevant Minister or the supervisory committee refuses to furnish the information or to submit the documents, Article 8:31 of the General Administrative Law Act will remain applicable. If the relevant Minister or the supervisory committee are obliged to submit documents to the District Court, it will suffice to allow inspection of the relevant documents. It is not in any way permitted to make a copy of the relevant documents.

**Article 88**

If an advisory committee as referred to in Article 7:13 of the General Administrative Law Act has been set up regarding the decision on a notice of objection submitted against a decision by the relevant Minister, this committee will not have the power referred to in Article 7:13, fourth paragraph, of the General Administrative Law Act, in so far as it concerns the decision regarding the application of Article 7:4, sixth paragraph, of the General Administrative Law Act. Exercising this power remains reserved for the relevant Minister.



# The Act, presented in its original form

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Oranje-Nassau, et cetera, et cetera, et cetera.

To all who see or read this, be greeted! And understand the following: That we, having considered that it is desirable to lay down new rules concerning the services responsible for conducting investigations and promoting measures in the interest of national security and other important state interests, the processing of data by the above services, the inspection of the data processed by these services, the supervision and handling of complaints, and in connection with the above, to amend several Acts;

In this way, We, having heard the Council of State, and after public consultation of the States General, have approved and agreed as follows:

## CHAPTER 1. GENERAL PROVISIONS

### Article 1

In this Act and the provisions based on this Act, the following terms are defined:

- a. service: the General Intelligence and Security Service or the Defence Intelligence and Security Service;
- b. co-ordinator: the functionary referred to in Article 4;
- c. the relevant Minister:
  1. regarding the General Intelligence and Security Service: the Minister of the Interior and Kingdom Relations;
  2. regarding the Defence Intelligence and Security Service: the Minister of Defence;
  3. regarding the co-ordinator: the Prime Minister, Minister of General Affairs;
- d. information: personal data and other information;
- e. personal data: information relating to an identifiable or identified, individual natural person;
- f. information processing or the processing of

information: any action or any set of actions regarding information, including in any case collecting, recording, arranging, storing, updating, altering, retrieving, consulting or using information, disseminating information by means of forwarding, distributing information or any other form of making available of information, and the assembling, interrelating, protecting, exchanging or destroying of information;

- g. supervisory committee: the committee referred to in Article 64.

### Article 2

The services and the co-ordinator will exercise their duties in accordance with the law and in subordination to the relevant Minister.

## CHAPTER 2. THE SERVICES AND THE CO-ORDINATION BETWEEN THE SERVICES

### Section 2.1. The co-ordination of the tasks performed by the services

### Article 3

The relevant Ministers will regularly consult together on their policy regarding the services and the co-ordination of the policy. Other Ministers apart from the relevant Ministers will be invited to participate in these consultations if this is required in view of the interests to be served.

### Article 4

1. There is a co-ordinator of the intelligence and security services.
2. The co-ordinator is appointed by Royal Decree on the joint recommendation of the relevant Ministers.
3. The co-ordinator is responsible for, in accordance with the instructions of the Prime Minister, Minister of General Affairs and other relevant Ministers:
  - a. preparing the consultations referred to in Article 3;

- b. co-ordinating the performance of the tasks of the services.
- 4. The co-ordinator will inform the relevant Ministers of anything that may be of concern.
- 5. Chapter 3, with the exception of section 3.2.2, and chapter 4, apply by analogy to the processing of information by the co-ordinator.

#### **Article 5**

The heads of the services will assist the co-ordinator in the execution of his tasks. To this end they will provide him will all information necessary.

### **Section 2.2 The General Intelligence and Security Service**

#### **Article 6**

1. There is a General Intelligence and Security Service.
2. In the interest of national security the General Intelligence and Security Service has the following tasks:
  - a. conducting investigations regarding organisations that, and persons who, because of the objectives they pursue, or through their activities give cause for serious suspicion that they are a danger to the continued existence of the democratic legal system, or to the security or other vital interests of the state;
  - b. conducting security clearance investigations as referred to in the Security Investigations Act;
  - c. promoting measures for the protection of the interests referred to under a, including measures for the protection of information that is to remain secret for reasons of national security, and information pertaining to those parts of the public service and business community that in the opinion of the relevant Ministers are of vital importance for the continued existence of the social order;
  - d. conducting investigations regarding other countries concerning subjects designated by the Prime Minister, Minister of General Affairs, in accordance with the relevant Ministers.

### **Section 2.3 The Defence Intelligence and Security Service**

#### **Article 7**

1. There is a Defence Intelligence and Security Service.
2. In the interest of national security the Defence Intelligence and Security Service has the following tasks:
  - a. conducting investigations:
    1. into the potential and the armed forces of other powers, in order to achieve a balanced composition and an effective use of our armed forces;
    2. of factors that are or may be of influence on maintaining and promoting the international legal system, in so far as the armed forces are, or are expected to become, involved in this.
  - b. conducting security clearance investigations as referred to in the Security Investigations Act;
  - c. conducting investigations necessary for taking measures:
    1. to prevent activities aimed at damaging the security or readiness of the armed forces;
    2. to promote a proper organisation of the mobilisation and concentration of the armed forces;
    3. for a smooth preparation and deployment of the armed forces as referred to in part a, under 2.
  - d. promoting measures to protect the interests referred to under c, including measures to protect information concerning the armed forces the secrecy of which is required;
  - e. conducting investigations concerning other countries, regarding matters with military relevance that have been designated by the Prime Minister, Minister of General Affairs in accordance with the relevant Ministers.

### **Section 2.4 Reporting on the execution of tasks by the services**

#### **Article 8**

1. Once a year, before 1 May, the relevant Ministers will publicly report simultaneously to the two Chambers of the States General on

the way in which the General Intelligence and Security Service and the Defence Intelligence and Security Service have carried out their tasks over the past calendar year.

2. The report will in any case include a comprehensive overview of:
  - a. the areas of special attention on which the service has focused its activities over the past year;
  - b. the areas of special attention on which the service will in any case focus its activities in the current year.
3. The public report will in any case not make mention of information that provides insight into:
  - a. resources used by the service in concrete cases;
  - b. secret sources used by the service;
  - c. the service's current level of knowledge.
4. The relevant Minister can confidentially disclose the information referred to in the third paragraph to either one or both Chambers of the States General.
5. Without prejudice to the obligation referred to in the first paragraph, the relevant Ministers will of their own accord inform both Chambers of the States General, if there is reason to do so. The third and fourth paragraphs are applicable by analogy.

### **Section 2.5 Special provisions regarding the functionaries active for the services**

#### **Article 9**

1. The functionaries of the services have no powers to investigate offences.
2. The functionaries referred to in Article 60 when conducting activities in the sense of said Article, will not exercise any powers to investigate offences.

#### **Article 10**

1. A functionary of a service is not permitted, other(wise) than for the performance of his duties, to travel to or stay in:
  - a. a country actually engaged in an armed conflict;
  - b. countries designated by ministerial order by the relevant Ministers in which a stay by a functionary of a service may constitute a

special national security risk.

2. The relevant Minister can grant an exemption from the prohibition referred to in the first paragraph, if the urgent personal or other interests of the functionary in question so require and provided it is not detrimental to the security or other vital interests of the state.
3. This Article is applicable by analogy regarding the co-ordinator, the functionaries subordinate to the co-ordinator and the functionaries appointed in accordance with Article 60, second paragraph.

### **Section 2.6 More detailed provisions regarding the organisation, method of working and management of the services**

#### **Article 11**

The relevant Minister can lay down more detailed rules regarding the organisation, method of working and management of a service.

## **CHAPTER 3. THE PROCESSING OF INFORMATION BY THE SERVICES**

### **Section 3.1 General provisions**

#### **Article 12**

1. The services are authorised to process information with due observance of the requirements set by or in accordance with this Act or by or in accordance with the Security Investigations Act.
2. Processing information takes place exclusively for a specific purpose and only in so far as necessary for the proper implementation of this Act or the Security Investigations Act.
3. Processing information takes place in accordance with the law and with proper and due care.
4. The information processed in the context of the performance of the services is provided with an indication of the degree of reliability or a reference to the document or source from which the information is derived.

#### **Article 13**

1. The General Intelligence and Security Service

may only process personal data relating to persons:

- a. who give cause to serious suspicion for being a danger to the democratic legal system, or to the security or other vital interests of the state;
  - b. who have given permission for a security clearance investigation;
  - c. for whom this is necessary within the context of the investigations regarding other countries;
  - d. about whom information has been obtained by another intelligence or security service;
  - e. whose data are necessary to support a proper performance of its duties by the service;
  - f. who are currently or have been employed by a service.
2. The first paragraph is applicable by analogy to the Defence Intelligence and Security Service on the understanding that the above paragraph 1 sub a is read as: who give cause to serious suspicion for being dangerous to the security or the readiness of the armed forces.
  3. There is no processing of personal data on the basis of a person's religion or convictions about life, or on the basis of his race, health and sexual life.
  4. Processing of personal data relating to the characteristics referred to in the third paragraph will only take place supplementary to the processing of other information and only in so far as it is inevitable for the purpose of processing the information.

#### **Article 14**

1. The Articles 12, 13, first, third and fourth paragraphs are also applicable to processing information for the General Intelligence and Security Service by the functionaries referred to in Article 60.
2. Processing of information as referred to in the first paragraph for the General Intelligence and Security Service will remain strictly separated from the processing of information by the relevant functionaries for other purposes. The head of the General Intelligence and Security Service can give further instructions on this matter.
3. The Minister of the Interior and Kingdom Relations is responsible for the archive

documents relating to the processing of information for the General Intelligence and Security Service by the functionaries referred to in Article 60, in so far as these archive documents have not been transferred to a depository belonging to the national archives.

#### **Article 15**

The heads of the services are responsible for:

- a. the secrecy of the relevant information;
- b. the secrecy of the relevant sources from which information is derived;
- c. the safety of the persons co-operating in the collection of the information.

#### **Article 16**

The heads of the services are also responsible for:

- a. the necessary provisions to promote the accuracy and completeness of the information processed;
- b. the necessary provisions of a technical and organisational nature to protect the processing of information against loss of or damage to information, and against the unauthorised processing of information;
- c. appointing persons who are exclusively authorised to conduct the activities stated together with the appointment within the context of processing information.

### **Section 3.2 Collecting information**

#### **Section 3.2.1. General**

#### **Article 17**

1. In performing their tasks, or in order to support a proper performance of their duties, the services, in order to collect information, are authorised to apply to:
  - a. administrative bodies, public servants and furthermore any persons deemed capable of providing the necessary information;
  - b. the person responsible for processing specific information.
2. In the case referred to in the first paragraph, opening words and under b, the public servant charged with the matter is obliged to prove his identity to the person responsible for the processing of information in a specific case, on the basis of an identity card provided by the

relevant head of a service.

3. The provisions in force for the person responsible for processing information in a specific case regarding the furnishing of such information do not apply if such information is furnished pursuant to a request as referred to in the first paragraph, opening words and under b.

### **Section 3.2.2. Special powers of the services**

#### **Article 18**

A power as referred to in this paragraph may only be exercised in so far as necessary for a proper performance of the tasks as referred to in Article 6, second paragraph, under a and d, and the tasks as referred to in Article 7, second paragraph, under a, c, and e.

#### **Article 19**

1. Exercising a power as referred to in this section by a service is permitted only if, in so far as this section does not provide otherwise, the relevant Minister or the relevant head of a service on behalf of this Minister, has given permission for this.
2. The head of a service can, by written decision, appoint subordinate functionaries to grant the permission referred to in the first paragraph on his behalf. A copy of the decision is sent to the relevant Minister.
3. The permission is granted, in so far as not otherwise provided by law, for a period of a maximum of three months and can each time be extended in response to a request to that effect for a similar period at a time.

#### **Article 20**

1. The services are authorised to:
  - a. conduct surveillance and within this context record information relating to the actions of natural persons or information relating to objects, whether or not with the aid of observation and registration instruments;
  - b. trace and within this context record information relating to natural persons or information relating to objects, whether or not with the aid of tracing instruments,

location positioning equipment and registration instruments.

2. Using observation and registration instruments as referred to in the first paragraph, under a, and installing tracing instruments, location positioning equipment and registration instruments as referred to in the first paragraph under by the Defence Intelligence and Security Service is only permitted, in so far as this concerns the use or installation of such instruments or equipment in enclosed spaces not in use by the Ministry of Defence, if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. Using observation and registration instruments as referred to in the first paragraph, under a within dwellings is permitted only if the relevant Minister has given the head of the service written permission to do so. In the case referred to in the second paragraph permission is granted, in so far as dwellings are concerned, by the Minister of the Interior and Kingdom Relations.
4. The request for permission as referred to in the third paragraph is made by the head of the service and contains at least:
  - a. the address of the dwelling in which the instrument is to be used;
  - b. a description of the type of instrument to be used;
  - c. the reason why the use of the relevant instrument is deemed necessary.

#### **Article 21**

1. The services are authorised to:
  - a. deploy natural persons, whether or not under cover of an assumed identity or capacity, who, under the responsibility and on the instruction of a service, are charged relating to persons and organisations that can be relevant to the performance of the tasks of a service;
  2. promoting or taking measures to protect the interests attended to by a service.
  - b. setting up and using legal entities in support of operational activities.
2. The relevant Minister can instruct in writing the relevant administrative bodies to cooperate in so far as necessary to provide a natural person as referred to in the first



paragraph, under a with an assumed identity. The statutory provisions in force for the administrative body relating to the activities requested, will not apply in so far as these provisions are in conflict with the execution of such activities.

3. The natural person referred to in the first paragraph under a can receive instructions from the service to perform activities that may result in rendering assistance in the committing of an offence or in committing an offence. An instruction as referred to in the first sentence is only issued if a proper performance of the duties of the service or the safety of the relevant natural person so require.
4. The natural person referred to in the first paragraph, under a, in car out the instruction is not permitted to get someone, due to the first persons actions, to carry out other actions regarding the devising or committing of offences than those actions the second person was intending to carry out already.
5. On issuing the instruction referred to in the third paragraph, the person in question will be instructed:
  - a. under which circumstances it is permitted to carry out activities pursuant to the instruction that may result in rendering assistance in the committing of an offence or in committing an offence;
  - b. how the instruction is to be executed, including the nature of the activities that will be carried out by the person in question, in so far as these activities can be foreseen on issuing the instruction.
6. The instruction to a natural person as referred to in the first paragraph, under a, is recorded in writing.
7. By or in accordance with an Order in Council, on the joint recommendation of the relevant Ministers and the Minister of Justice, further rules can be laid down regarding:
  - a. the conditions under which and the cases in which a natural person as referred to in the first paragraph, under a, is permitted to carry out activities pursuant to the instruction that may result in rendering assistance in the committing of an offence or in committing an offence;
  - b. how the execution of the relevant power is supervised.
8. Article 29, first and second paragraph of the

Government Accounting Act does not apply to the formation of a legal entity as referred to in the first paragraph, under b.

## **Article 22**

1. The services are authorised, with or without the aid of a technical instrument to:
  - a. to conduct a search of enclosed spaces;
  - b. to search closed objects;
  - c. conduct an investigation of objects aimed at establishing a person's identity.
2. The execution of the power referred to in the first paragraph by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, is only permitted if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. If required for an investigation carried out by a service, an object found in the course of the execution of the power referred to in the first paragraph can be removed for a limited time by the service in question, in so far as examination of the relevant object at the site of the search is impossible and the intended collection of information cannot be accomplished in any other, less intrusive manner. The object in question will be replaced as soon as possible, unless this conflicts with a proper performance of the duties of the service or no reasonable interest is served by replacing the object.
4. The power referred to in the first paragraph, under a, may only be exercised, in so far as it concerns dwellings, if the relevant Minister has given the head of the service written permission to do so. The execution of the power referred to in the first paragraph, under a, by the Defence Intelligence and Security Service relating to dwellings outside of places in use by the Ministry of Defence, is only permitted if permission therefore is granted in accordance with the Minister of the Interior and Kingdom Relations.
5. The permission referred to in the fourth paragraph is granted for a maximum period of three days. The General Extension of Time-limits Act does not apply.
6. The request for permission as referred to in the fourth paragraph is made by the head of the service and contains at least:

- a. the address of the dwelling that is to be searched, and
- b. the reason why the dwelling is to be searched.

**Article 23**

1. The services are authorised to open letters and other consignments without the consent of the sender or the addressee, provided the District Court at The Hague, on the request of the head of the service, has given a mandate to do so.
2. For the execution of the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
3. The request referred to in the first paragraph by the head of the Defence Intelligence and Security Service regarding letters and other consignments of which the sender or addressee's address does not correspond with an address of a place in use by the Ministry of Defence, is made in accordance with the head of the General Intelligence and Security Service.
4. The request for a mandate as referred to in the first paragraph contains at least:
  - a. the name and the address of the person or organisation to whom or to which letters or other consignments are addressed or from whom or which letters or other consignments originate that are to be opened;
  - b. the reason why the letters or other consignments should be opened.
5. A mandate is only given if this is necessary for a proper performance of the duties of the service.
6. A mandate as referred to in the first paragraph is given:
  - a. by letter or other consignment, if this is already in the possession of the service;
  - b. for a period to be stated in the mandate of a maximum of three months if it concerns opening letters or other consignments that are or will be entrusted to a postal institution or transport company stated in the mandate.
7. The postal institution or transport company referred to in the sixth paragraph, under b, is obliged to surrender against receipt the letters and other consignments relating to

the mandate to a functionary of the service designated for this purpose by the head of the service.

8. The functionary is obliged to prove his identity to the postal institution or transport company on the basis of an identity card provided by the head of the service.
9. The services ensure that the letter or other consignment surrendered by the postal institution or transport company after the investigation of such letter or consignment will immediately be returned to the relevant postal institution or transport company in order to be forwarded.

**Article 24**

1. The services are authorised, whether or not using technical instruments, false signals, false keys or false identities, to enter an automated work. The powers referred to in the first sentence, also include the power:
  - a. to penetrate any security;
  - b. to introduce technical devices to undo the encryption of data stored or processed in the automated work;
  - c. to copy the data stored or processed in the automated work.
2. The execution of the power as referred to in the first paragraph by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, is only permitted if permission to that end is granted in accordance with the Minister of the Interior and Kingdom Relations or, in so far as applicable, the head of the General Intelligence and Security Service.
3. Any person who has knowledge of the undoing of the encryption of the data stored or processed in the automated work as referred to in the first paragraph, is obliged upon the written request of the head of the service to provide all the co-operation necessary in order to undo the encryption.

**Article 25**

1. The services are authorised, with the aid of a technical device, to intercept, receive, record and monitor in a directed way any form of conversation, telecommunication or data transfer by means of an automated work, irrespective of where this takes place.

The powers referred to in the first sentence include the power to undo the encryption of the conversations, telecommunication or data transfer.

2. The power referred to in the first paragraph may only be exercised if a request to that effect has been granted to the head of the service.
3. The execution of the power as referred to in the first paragraph by the Defence Intelligence and Security Service regarding conversations, telecommunication or data transfer by means of an automated work, in so far as this does not take place in or regarding places in use by the Ministry of Defence, is only permitted if permission to that end is granted in accordance with the Minister of the Interior and Kingdom Relations.
4. The request for permission as referred to in the second and third paragraphs is made by the head of the service and contains at least:
  - a. an indication of the power the service wishes to exercise and, in so far as applicable, the number as referred to in Article 1.1, under t, of the Telecommunication Act;
  - b. information regarding the identity of the person or organisation involved in connection with whom or which the power to be exercised is requested;
  - c. the reason why the power in question that is to be exercised is requested.
5. If at the time of the request for permission the number as referred to in the fourth paragraph, under a, is not yet known, permission will be granted only on the condition that the power may only be exercised once the number in question is known. The services are authorised to use a technical device in order to obtain the number referred to in the first sentence. The execution of the power as referred to in the second sentence by the Defence Intelligence and Security Service outside of places in use by the Ministry of Defence, takes place in accordance with the Minister of the Interior and Kingdom Relations.
6. If at the time of the request for permission the information as referred to in the fourth paragraph, under b, is not yet known, permission will only be granted on the condition that the information in question is supplemented as quickly as possible.
7. Any person who has knowledge of the undoing of the encryption of conversations,

telecommunication or data transfer as referred to in the first paragraph, is obliged upon the written request of the head of the service to give all the co-operation necessary in order to undo the encryption.

8. The third paragraph does not apply to the directed reception and recording of non-cable-bound telecommunication originating from or intended for other countries, on the basis of a technical characteristic. In so far as this telecommunication relates to military message traffic no permission is required as referred to in the Articles 19 and 25, second paragraph.

#### **Article 26**

1. The services are authorised, with the aid of a technical device, to receive and record non-cablebound telecommunication originating from or intended for other countries, on the basis of a technical characteristic to monitor the communication. The services are authorised to take cognisance of the information received in this context. The powers as referred to in the first sentence include the power to undo the encryption of the telecommunication.
2. For exercising the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
3. As soon as, due to exercising the power as referred to in the first paragraph, the identity has been established of the person or organisation from whom or from which the telecommunication originates, this can be recorded if this is necessary for a proper performance of the duties by the service.
4. As soon as, due to exercising the power as referred to in the first paragraph, the identity has been established of the person or organisation from whom or from which the telecommunication originates, a request for permission as referred to in Article 25, second paragraph will be submitted within two days, if the reception and recording of the telecommunication of the person or organisation in question is necessary for a proper performance of the duties by the service. Until the moment the permission as referred to in Article 25, second paragraph is granted, no further cognisance is taken of the recorded telecommunication.



5. If the reception and recording of the telecommunication of the person or organisation in question is not necessary for a proper performance of the duties by the service, the information received and recorded in accordance with the first paragraph will immediately be destroyed.

#### **Article 27**

1. The services are authorised, with the aid of a technical device, to receive and record non-specific non-cable-bound telecommunication. The powers as referred to in the first sentence include the power to undo the encryption of the telecommunication.
  2. For exercising the power as referred to in the first paragraph, no permission as referred to in Article 19 is required.
  3. The information collected due to exercising the power as referred to in the first paragraph, can be selected by the services on the basis of:
    - a. information regarding the identity of a person or an organisation;
    - b. a number as referred to in Article 1.1, under t, of the Telecommunication Act, or any technical characteristic;
    - c. catchwords related to a subject described in more detail.
  4. The permission for the selection as referred to in the third paragraph, under a and b, is granted by the Minister of the Interior and Kingdom Relations to the head of the service in response to a request to that effect for a period of three months maximum and can each time be extended in response to a request to that effect. The request for permission contains at least:
    - a. the information as referred to in the third paragraph, under a or b, on the basis of which the selection will take place;
    - b. the reason why the selection will take place.
  5. The permission for the selection on the basis of catchwords as referred to in the third paragraph, under c, is granted by the relevant Minister to the head of the service in response to a request to that effect for a maximum period of one year and can each time be extended in response to a request to that effect. The request for granting permission contains at least:
    - a. a detailed description of the subject;
    - b. the reason why the selection is to be made.
6. Article 19 applies to determining the catchwords related to a subject, on the understanding that in the third paragraph of Article 19 'three months' is read as: one year.
  7. When permission as referred to in the fifth paragraph is granted, this is confidentially reported together with the subject and the reason of the selection to one or both chambers of the States General and the supervisory committee.
  8. In so far as the selection as referred to in the third paragraph takes place by the Defence Intelligence and Security Service regarding telecommunication originating from and intended for the Netherlands, the relevant permission is granted in accordance with the Minister of the Interior and Kingdom Relations.
  9. Information collected in the course of exercising the power as referred to in the first paragraph, may, in so far as the information has not been selected, be retained for a maximum period of one year in order to enable a further selection, on the understanding that this:
    - a. may only take place within the context of an investigation by a service on the basis of a reason as referred to in the fourth paragraph, under b, or relating to a subject as referred to in the fifth paragraph, under a, for which at the moment of the reception and recording of the information in question permission had been granted, and
    - b. is urgently required for a proper execution of the investigation in question.
  10. The ninth paragraph applies by analogy to information the encryption of which has not yet been made undone, on the understanding that the period as referred to in the ninth paragraph will only start from the moment the encryption has been made undone.

#### **Article 28**

1. The services are authorised to turn to providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act with the request to furnish information relating to all the traffic that has taken place or will take

- place via a public telecommunication network or by means of public telecommunication services in respect of the number stated in the request, or a number belonging to a person or organisation stated in the request. The services are authorised to use a technical device in order to obtain the number as referred to in the first sentence.
2. For the execution of the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
  3. The request is made in writing by the head of the relevant service and contains:
    - a. the number as referred to in Article 1.1, under t, of the Telecommunication Act, or
    - b. information relating to the name and domicile or residence of the person, or the registered office of the organisation to whom or to which the number as referred to under a, belongs, and
    - c. a description of the type of information to be provided and
    - d. the period to which the information to be provided refers.
  4. The request as referred to in the first paragraph by the head of the Defence Intelligence and Security Service regarding traffic that has not taken place or will not take place in or regarding places in use by the Ministry of Defence, is made in accordance with the head of the General Intelligence and Security Service.
  5. The information as referred to in the first paragraph is in any case understood to include:
    - a. numbers as referred to in Article 1.1, under t, of the Telecommunication Act with which a call was or is made or a connection was or is made from the number stated in the request, and the numbers with which a call was or is made or a connection was or is made with the numbers stated in the request;
    - b. information regarding the identity of the person or organisation to whom or to which the number referred to under a belongs;
    - c. the starting time, duration and termination time of the call or connection.
  6. The providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication

Act are obliged to immediately provide the information requested, in so far as the request does not state otherwise.

7. For the furnishing of information pursuant to a request as referred to in the first paragraph, Article 17, third paragraph will apply by analogy.

#### **Article 29**

1. The services are authorised to turn to providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act with the request to furnish information relating to:
  - a. the name and the registered domicile or residence of the person, or the registered office of the organisation to whom or to which the number as referred to in that act and as stated in the request, belongs;
  - b. the number as referred to in that act and the registered domicile or residence of the person, or the registered office of the organisation.
2. For exercising the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
3. The request is made by or on behalf of the head of the relevant service.
4. The providers of public telecommunication networks and public telecommunication services in the sense of the Telecommunication Act are obliged to immediately provide the information requested, in so far as the request does not state otherwise.
5. For the furnishing of information pursuant to a request as referred to in the first paragraph, Article 17, third paragraph will apply by analogy.

#### **Article 30**

1. The services have access to all places in so far as this is in reasonableness necessary:
  - a. to install observation and registration instruments as referred to in Article 20, first paragraph, under a;
  - b. to install tracing instruments, location positioning equipment and registration instruments as referred to in Article 20, first paragraph, under b;
  - c. to exercise the power as referred to in Article 22, first paragraph, under a;

- d. to exercise the power as referred to in Article 24;
  - e. to exercise the power as referred to in Article 25;
  - f. to collect as regards the telecommunication equipment present the information necessary in order to exercise the power for which permission has been granted in accordance with Article 25, sixth paragraph.
2. For the execution of the power as referred to in the first paragraph, first sentence, no permission as referred to in Article 19 is required.
  3. Exercising the power as referred to in the first paragraph is permitted only by persons designated to do so by the head of a service.
  4. Article 1, first, second and third paragraphs and Article 2, first paragraph, last sentence of the General Act on Entry into Dwellings do not apply. The relevant Minister or the head of a service on behalf of the relevant Minister is authorised to grant an authorisation as referred to in Article 2 of the General Act on Entry into Dwellings. In the cases as referred to in the first paragraph, under a and c, the permission pursuant to the relevant Articles in connection with exercising the power to enter dwellings, also counts as authorisation in the sense of Article 2 of the General Act on Entry into Dwellings.

#### **Article 31**

1. Exercising the power as referred to in this section is permitted only if the intended collection of information cannot take place or cannot take place in time by consulting publicly accessible sources of information or sources of information for which the service has been granted a right to inspect the information contained in said sources.
2. If it has been decided to collect information by exercising one or more powers as referred to in this paragraph, only that power will be exercised that in view of the circumstances of the case, including the seriousness of the threat to the interests protected by a service, also in comparison with other available powers, will cause least harm to the person involved.

3. A power will not be exercised if the execution of said power will result in disproportionate harm to the person involved in comparison with the intended objective of the action.
4. The execution of a power must be proportionate to the intended objective of the action.

#### **Article 32**

Exercising a power as referred to in this paragraph will be immediately terminated if the objective to which the power was exercised has been accomplished, or exercising a less far-reaching power would suffice.

#### **Article 33**

When a power as referred to in this section is exercised, a written report will be made of the event.

#### **Section 3.2.3 Reporting on the execution of several special powers**

#### **Article 34**

1. Five years after a special power as referred to in the Articles 23, first paragraph, 25, first paragraph, 27, third paragraph, under a and b, and Article 30, first paragraph, in so far as a dwelling has been entered without the permission of the occupant, has been exercised and subsequently once every year, the relevant Minister will examine whether a report of the event can be submitted to the person with regard to whom one of these special powers has been exercised. If this is possible, this will take place as soon as possible.
2. If it is not possible to submit a report to the person with regard to whom the special power as referred to in the first paragraph has been exercised, the supervisory committee will be informed accordingly. The notification to the committee will state the grounds on the basis of which the report cannot be submitted.
3. The report will be in writing and contain exclusively:
  - a. information regarding the identity of the person in question;

- b. an indication of the special power as referred to in the first paragraph that has been exercised with regard to the person in question;
  - c. the person or body that has granted permission, authority or a mandate for the execution of the special power;
  - d. the date on which permission, authority or a mandate for the execution of the special power was granted;
  - e. the period during which the special power was carried out and, if the execution of the special power concerned the entering of a dwelling without the permission of the occupant, an indication of the dwelling entered.
4. In so far as the execution of the special power concerns the entering of a dwelling without the permission of the occupant, Article 10, second paragraph, of the General Act on Entry into Dwellings will not apply.
  5. The obligation to submit a report as referred to in the first paragraph will lapse the moment it is determined that this in reasonableness is not possible.
  6. Submitting a report to the person in question is postponed if the relevant special power was exercised within the context of an investigation in view of which, had the person in question at the moment of the investigation submitted a request as referred to in Article 47, furnishing the information to this person would have to be refused in accordance with Article 53.
  7. The obligation as described in the first paragraph to examine whether a report can be submitted, will lapse if submitting a report on the execution of the relevant special power can reasonably be expected to result in:
    - a. sources of a service, including intelligence and security services of other countries, being disclosed;
    - b. relations with other countries and international organisations being seriously damaged;
    - c. a specific use of a method of a service or the identity of a person who has assisted the relevant service in using the method, being disclosed.

## **Section 3.3 Furnishing of information**

### **Section 3.3.1 Internal furnishing of information**

#### **Article 35**

Furnishing of information that has been processed by or on behalf of a service to a functionary active within the service or pursuant to Article 60 for the General Intelligence and Security Service, takes place only in so far as this is necessary for a proper execution of the task assigned to the functionary in question.

### **Section 3.3.2 External furnishing of information**

#### **Section 3.3.2.1. General provisions**

#### **Article 36**

1. Within the context of a proper performance of the duties of the service, the services are authorised to notify the following parties regarding information processed by or on behalf of the service:
  - a. the relevant Ministers;
  - b. other relevant administrative bodies;
  - c. other relevant persons or bodies;
  - d. the appropriate intelligence and security services of other countries, and the appropriate international security, signals intelligence and intelligence bodies.
2. A notification as referred to in the first paragraph is given by the relevant Minister if the nature of the notification gives cause for this.
3. Without prejudice to the notification as referred to in the first paragraph, notification of information processed by the services may only take place in the cases provided by this act.

#### **Article 37**

1. Furnishing of information can take place on the condition that the person to whom the information is furnished will not furnish the information to other parties.
2. The condition as referred to in the first paragraph is always stipulated when information is furnished to a body as referred to in Article 36, first paragraph, under d.
3. If information is furnished on the condition that this may not be furnished to other parties, the

relevant Minister or the head of the service on behalf of the relevant Minister, may still grant permission to furnish information to other persons or bodies. Conditions can be attached to such permission.

#### **Article 38**

1. If during the processing of the information by or on behalf of a service it appears that certain information may also be relevant to the investigation or prosecution of offences, the relevant Minister or the head of a service on behalf of the relevant Minister, can, without prejudice to the situation that there is a statutory obligation to do so, give a written notification to the appropriate officer of the Public Prosecutions Department.
2. In urgent cases the notification as referred to in the first paragraph can take place orally. The relevant Minister or the head of a service on behalf of the relevant Minister will confirm in writing the notification in question as soon as possible.
3. On a request from the appropriate officer of the Public Prosecutions Department all the information on which the notification is based and which is necessary in order to assess the correctness of the notification, may be inspected. The Articles 85 and 86 are applicable by analogy.

#### **Article 39**

1. Without prejudice to the provisions of Article 38 it is furthermore possible, if during processing information by or on behalf of a service an urgent and serious reason to do so emerges, to give written notification of information to persons or bodies designated by Order in Council and involved in the execution of a public task, in so far as this information can be relevant for the promotion of the interests entrusted to such persons or bodies in such a context.
2. Article 40, second and third paragraphs are applicable by analogy.
3. The proposal for an Order in Council to be drawn up in accordance with the first paragraph is not made any earlier than four weeks after the draft of such an Order in Council has been submitted to the two Chambers of the States General.

### **Section 3.3.2.2. Special provisions relating to the external furnishing of personal data**

#### **Article 40**

1. Notification of personal data takes place in writing by the relevant Minister or the head of the service on behalf of the relevant Minister if the person or body to whom or to which the notification in question is made as a result of such notification is authorised to take measures towards the person in question.
2. In urgent cases the notification as referred to in the first paragraph can take place orally. The relevant Minister or the head of the service on behalf of the relevant Minister will confirm in writing the notification in question as soon as possible.
3. The relevant Minister or the head of the service on behalf of the relevant Minister can allow a person or body inspection of the information on which the notification is based, in so far as this is necessary in order to assess the accuracy of the notification. The Articles 85 and 86, second and third paragraphs, apply by analogy to the persons and bodies allowed to inspect the information in question.

#### **Article 41**

1. Furnishing personal data the accuracy of which cannot in reasonableness be established or that have been processed longer than 10 years ago, while no new information regarding the person in question has been processed since that time, will not take place.
2. In derogation of the first paragraph, information on personal data may only be furnished to:
  - a. a service or a body as referred to in Article 36, first paragraph, under d;
  - b. bodies entrusted with the investigation and prosecution of offences;
  - c. other bodies in special cases to be determined by the relevant Minister.
3. When information is furnished as referred to in the second paragraph, the degree of reliability and the period over which the information was developed on which the notification is based, is stated. If regarding the information in question a



statement as referred to in Article 48, first paragraph, is available, this will be furnished simultaneously.

4. Article 40, third paragraph, applies by analogy.

#### **Article 42**

A record is kept of the furnishing of personal data.

### **Section 3.4 The removal, destruction and transfer of information**

#### **Article 43**

1. Information that, in view of the purpose for which it is processed, is no longer meaningful, will be removed.
2. If it appears that the information is incorrect or is wrongfully processed, the information will be corrected or removed. The relevant Minister will as soon as possible notify the persons to whom the information has been furnished.
3. The information removed will be destroyed, unless this is in conflict with statutory provisions on the retention of information.
4. If regarding the information eligible for destruction a request as referred to in Article 47 has been made, the destruction of the information in question is suspended at least until an irrevocable decision has been reached on the request. In so far as the request is granted, the information in question will not be destroyed until the person in question has been able to inspect the information in accordance with Article 47, second paragraph.

#### **Article 44**

1. In derogation of Article 12, first paragraph, of the Public Records Act 1995 only the archive documents as referred to in Article 1, opening words, section c, under 1°, 2° and 4°, of the Public Records Act 1995 are transferred to an archive depository that are older than twenty years and of which the relevant Minister, after having gained advice from the custodian of said archive depository, has determined that regarding to the information no restrictions as to public access should be applied in view of the interests of the state or one of its allies.
2. The restrictions referred to in the first paragraph do not refer to archive documents

that are older than seventy-five years, unless the relevant Minister, in accordance with the opinion of the Council of Ministers, decides otherwise.

## **CHAPTER 4. INSPECTION OF THE INFORMATION PROCESSED BY OR ON BEHALF OF THE SERVICES**

### **Section 4.1 General provisions**

#### **Article 45**

Without prejudice to the inspection of the information provided on the basis of section 3.3, the information processed by or on behalf of a service can only be inspected in accordance with the provisions laid down in this chapter.

#### **Article 46**

In this chapter the meaning of, document, administrative matter, internal consultation, personal interpretation of a policy, official advisory committee or mixed advisory committee will be the meaning referred to in Article 1 of the Freedom of Information Act.

### **Section 4.2 Right to inspection of personal data**

#### **Article 47**

1. The relevant Minister will inform anyone at his request as soon as possible but at the latest within three months whether, and if so which, personal data relating to this person have been processed by or on behalf of a service. The relevant Minister may adjourn his decision for four weeks at the most. A motivated written notification of the adjournment will be made to the person who has made the request before the expiration of the first term.
2. In so far as a request referred to in the first paragraph is conceded to, the relevant Minister will as soon as possible but no later than four weeks following the notification of his decision, give the person who has made the request the opportunity to inspect the information concerning him.

3. The relevant Minister will ensure that the identity of the person making the request is properly established.

**Article 48**

1. The person who pursuant to Article 47 has inspected processed information concerning him by or on behalf of a service may submit a written statement with respect to this. This statement will be added to the relevant information.
2. When the person inspects the information concerning himself, the provision laid down in the first paragraph will be pointed out to him.
3. The statement will be removed and destroyed at the same time as the information to which the statement relates, is removed and destroyed.

**Article 49**

1. In derogation of Article 47 the head of a service will enable as soon as possible but no later than four weeks after such a request, a person working with or on behalf of a service or a person who has worked with or on behalf of a service who has made a request to this end, to inspect the information concerning him in the personnel and salary administration of the relevant service.
2. Not open for inspection is information that may lead to sources that must be kept secret.
3. In derogation of Article 2:1, first paragraph of the General Administrative Law Act the head of a service may state that inspection of the information is reserved to the relevant person personally.
4. The person who has inspected the data concerning himself may submit a written request to the head of the service to improve, supplement or remove information if this is incorrect, incomplete for the purposes for which it is used or if it is not relevant or if it has been processed in violation of any statutory provision. The request concerns the alterations to be applied.
5. The head of a service will inform the person making the request within six weeks after receiving the request referred to in the fourth

paragraph, whether or to what extent he will comply with the request.

6. Article 56 is not applicable.

**Article 50**

1. Article 47 applies by analogy to a request concerning personal data processed by or on behalf of a service with respect to a deceased spouse, a registered partner, a child or a parent of the person making the request.
2. The request referred to in the first paragraph will at least contain the following information:
  - a. name and initials of the deceased person;
  - b. date and place of birth of the deceased person;
  - c. date and place of death;
  - d. the nature of the relationship of the deceased person to the person making the request.
3. In cases in which the request referred to in the first paragraph relates to the data of a person who is still alive or to the data of a deceased person who is not related to the person making the request as a spouse, a registered partner, a child or a parent, the request will be disallowed.

**Section 4.3 Right to inspection of information other than personal data**

**Article 51**

1. The relevant Minister will inform anyone at his request as soon as possible but at the latest within three months whether information other than the personal data concerning the administrative matter referred to in the request, can be inspected. The relevant Minister may adjourn his decision for a maximum of four weeks. The person making the request will receive a reasoned notification of the adjournment in writing before the expiration of the first term.
2. In so far as a request referred to in the first paragraph is complied with the relevant Minister will provide the person making the request with the relevant information as soon as possible but no later than within four weeks after the notification of his decision.

## Section 4.4 Method of inspecting information

### Article 52

1. The relevant Minister will provide the relevant information to the person making the request by:
  - a. providing a copy of the document containing the information or by supplying its literal contents in another form;
  - b. permitting inspection of the contents of the relevant document;
  - c. providing an extract or a summary of the contents of the relevant document, or;
  - d. supplying information laid down in the relevant document.
2. In choosing the form in which the data are provided the relevant Minister will take into account the preferences of the person making the request and the interests of the service.
3. For making copies of documents and extracts or summaries of the contents thereof a reimbursement can be asked from the person making the request. The provisions of or pursuant to Article 12 of the Freedom of Information Act are also applicable.

## Section 4.5 Grounds for refusal and restrictions

### Article 53

1. A request as referred to in Article 47 will in any case be dismissed if:
  - a. within the context of any investigation information has been processed concerning the person making the request, unless:
    1. the relevant information was processed more than 5 years ago;
    2. since then with regard to the person making the request no new information has been processed in connection with the investigation pertaining to which the relevant information has been processed, and;
    3. this information is not relevant to any current investigation.
  - b. no information has been processed with regard to the person making the request.
2. If a request pursuant to the first paragraph is dismissed, the general grounds for the dismissal stated in the first paragraph will only be referred to in general terms.

### Article 54

Article 53 applies by analogy to a request as referred to in Article 50 on the understanding that 'the person making the request' in Article 53 is read as 'the deceased person'.

### Article 55

1. A request as referred to in Article 51 will be dismissed in so far as furnishing the information pertaining to the request:
  - a. may endanger the unity of the Crown;
  - b. may harm national security;
  - c. concerns company or manufacturing details that have been provided confidentially to the authorities by natural persons or legal entities.
2. A request will also be dismissed in so far as the importance of furnishing the information pertaining to the request is outweighed by the following interests:
  - a. the relations between the Netherlands and other countries and international organisations;
  - b. the economic or financial interests of the state, the other public-law corporations or administrative bodies;
  - c. the investigation and prosecution of offences;
  - d. inspection, control and supervision by or on behalf of administrative bodies;
  - e. the due regard for individual privacy;
  - f. the interests of a person or an organisation to which the information relates to be the first to take cognisance of the information;
  - g. preventing disproportionate preference or prejudice of the natural persons or legal entities or third parties involved in the matter.
3. If a request for inspection is dismissed the supervisory committee will be informed of this. The notification to the committee will state the grounds on the basis of which the request has been dismissed.
4. The preceding paragraphs apply by analogy to a request as referred to in Article 47 and Article 50 respectively, in so far as such a request is not dismissed in accordance with Article 53 or Article 54 respectively.



**Article 56**

1. If the request pertains to information contained in documents drawn up for internal consultations, no information shall be provided on any personal policy statements these may include.
2. With a view to a proper and democratic operational management information on personal policy statements may be supplied in a form that does not disclose the person who has made the statement. If the person making the statement or declaring himself in favour of the statement gives his approval, the information may be supplied in a form that discloses this person.
3. With respect to advice from an official advisory committee or mixed advisory committee information may be provided that contains personal policy statements if prior to the commencement of their activities the members of the advisory committee have been informed by the administrative body directly concerned with this matter of the intention to do so.

**Section 4.6 Appeal**

**Article 57**

In derogation of Article 8:7 of the General Administrative Law Act for an appeal against decisions in accordance with this chapter the competent court will be the District Court at The Hague.

**CHAPTER 5. CO-OPERATION BETWEEN THE SERVICES AND OTHER BODIES**

**Section 5.1 Co-operation between services**

**Article 58**

1. The General Intelligence and Security Service and the Defence Intelligence and Security Service shall render one another their assistance whenever possible.
2. The co-operation referred to in the first paragraph will in any case consist of:
  - a. furnishing information;
  - b. granting technical and other forms of support within the context of the use of special powers as referred to in section 3.2.2.
3. A request for assistance as referred to in the

second paragraph, under b, will be signed by the relevant Minister and will contain an accurate description of the activities required. The relevant Minister who has requested the co-operation, shall be responsible for the actual execution of the activities to be carried out.

**Article 59**

1. The heads of services are responsible for maintaining relations with the appropriate intelligence and security services of other countries.
2. Within the context of maintaining relations as referred to in the first paragraph information may be provided to these services for the purpose of the interests served by these services, in so far as:
  - a. these interests are not incompatible with the interests served by the services, and
  - b. a proper performance of the duties does not dictate otherwise.
3. The articles 37, 41 and 42 apply by analogy to the furnishing of information as referred to in the second paragraph.
4. Within the context of maintaining relations as referred to in the first paragraph and upon a written request to that end also technical and other forms of assistance may be rendered to these services for the purpose of the interests to be served by these services, in so far as:
  - a. these interests are not incompatible with the interests served by the services, and
  - b. a proper performance of the duties is not incompatible with the provision of this form of assistance.
5. A request for support as referred to in the fourth paragraph must be signed by the appropriate authority of this service who has the power to do so and must contain an accurate description of the required form of assistance and the reason why this assistance is considered desirable. The assistance requested shall only be granted if the relevant Minister has given permission for this.
6. The relevant Minister may only give a mandate for granting permission as referred to in the fifth paragraph to the head of the service, in so far as it concerns requests of an urgent nature. The relevant Minister will be immediately informed by the head of the service of any permission granted.

## Section 5.2 Co-operation with other bodies

### Article 60

1. The commissioner of a police force, the commander of the Royal Netherlands Military Constabulary, the director-general of the national tax office of the Ministry of Finance perform activities for the General Intelligence and Security Service.
2. The relevant Ministers under whom the functionaries referred to in the first paragraph fall and the regional police force managers respectively, in agreement with the Minister of the Interior and Kingdom Relations appoint subordinates of these functionaries to perform the actual execution and supervision of the activities referred to.
3. The activities referred to in this Article are performed under the responsibility of the Minister of the Interior and Kingdom Relations in accordance with the instructions of the head of the General Intelligence and Security Service.
4. With respect to the actions of the police functionaries for the performance of the activities referred to in this article, Chapter IX of the Police Act 1993 is not applicable.

### Article 61

1. The members of the Public Prosecutions Department through the Board of the procurators general will inform a service of the information brought to their notice if they deem this to be in the interest of this service.
2. At all times when the fulfilment of the task of the Public Prosecutions Department and of a service gives rise to this, consultation will take place between a member of the Board of procurators general and the head of the relevant service.

### Article 62

The police officers, the functionaries of the national tax office as the competent authorities regarding customs and the functionaries of the Royal Netherlands Military Constabulary will notify the functionary referred to in Article 60, first paragraph, to whom they are a subordinate, of any information brought to their notice which may be of interest to a service.

### Article 63

1. The services are entitled, at the written request by the competent authority, to render technical support to the bodies responsible for the investigation of offences. Article 58, third paragraph, is applicable by analogy.
2. The relevant Minister is entitled to refer to the Minister of the Interior and Kingdom Relations with a written request for technical support by the National Police Services to be rendered to the service involved in the execution of its task. Article 58, third paragraph, is applicable by analogy.

## CHAPTER 6. SUPERVISION AND HANDLING OF COMPLAINTS

### Section 6.1 Establishment, composition and other special provisions concerning the supervisory committee

#### Article 64

1. There is a supervisory committee pertaining to the intelligence and security services.
2. The supervisory committee is responsible for:
  - a. the supervision of the legitimacy of the execution of the provisions of or in accordance with this act and the Security Investigations Act;
  - b. informing and advising, both asked and unasked, the relevant Ministers on any findings by the committee. If so desired, the committee may ask the relevant Ministers to inform either or both of the two Chambers of the States General of this information or advice. The procedure laid down in Article 79 is applicable by analogy;
  - c. advising the relevant Ministers on the investigation and assessment of complaints;
  - d. rendering unsolicited advice to the relevant Ministers on the execution of Article 34.

#### Article 65

1. The supervisory committee is made up of three members including the chairperson.
2. The members are appointed by Royal Decree on

the recommendation of the relevant Ministers collectively for a period of six years and can only be re-appointed once. For the appointment of the members the Second Chamber of the States General will present a list of three candidates for each vacancy from which the relevant Ministers will make their choice. In its recommendation the Second Chamber will take into account, if it deems useful, a list of recommendations drawn up collectively by the Vice President of the Council of State, the President of the Supreme Court of the Netherlands and the National Ombudsman, consisting of at least three persons for each vacancy.

3. The relevant Ministers may request the Second Chamber to produce a new list of candidates.
4. At least two of the three members including the chairperson must have obtained a law doctorate or have the right to carry the title of *meester*, obtained at a university or at the Open University to which the Higher Education and Scientific Research Act relates.
5. Before accepting their office, the members will before the Prime Minister, Minister of General Affairs:
  - a. take the oath or state and make their solid affirmation that in order to obtain their appointment they have neither directly nor indirectly, under whatever name or under whatever pretences, given or promised anything to anyone and that in order to do or not do anything in their administrative position they have not accepted nor will accept any gift or promise from anyone;
  - b. take the oath or make a solid affirmation of allegiance to the Constitution.
6. The members must have the Dutch nationality.
7. The members occupy no function the execution of which is undesired with a view to a proper fulfilment of their office or with a view to maintaining their impartiality and independence or of the trust in said impartiality and independence.
8. The functions of the members will be made public by the chairperson.

#### **Article 66**

The members of the supervisory committee will

be granted an honourable discharge by Royal Decree and on the recommendation of the relevant Ministers collectively:

- a. at the request of the person concerned;
- b. when the person concerned is permanently unable to fulfil his function due to an illness or disability;
- c. if the person concerned accepts a function as referred to in Article 65, seventh paragraph;
- d. if the person concerned loses the Dutch nationality;
- e. if the person concerned has been convicted for a criminal offence by a final and conclusive court decision, or if at such decision a measure has been taken that results in deprivation of liberty;
- f. if the person concerned pursuant to a final and conclusive court decision has been placed under tutelage, has been declared bankrupt, has been granted a suspension of payment or has been committed to prison for debt;
- g. if in the opinion of the relevant Ministers collectively, having heard the advice of the Second Chamber of the States General, the person concerned due to acts or omissions causes serious harm to the trust placed in him.

#### **Article 67**

1. The relevant Ministers collectively will suspend a member of the supervisory committee if:
  - a. he is held in pre-trial detention;
  - b. he has been convicted of a criminal offence by a court decision that has not yet become irrevocable, or if a measure has been taken against him at such a court decision that will result in the deprivation of his liberty;
  - c. he has been placed under tutelage, has been declared bankrupt, has been granted suspension of payment or has been committed to prison for debt pursuant to a court order that is not yet final and conclusive.
2. The relevant Ministers collectively may suspend a member of the committee if a preliminary inquiry has been instituted against him on account of a criminal offence or if there is another serious suspicion of the existence of facts or circumstances that could lead to

dismissal on other grounds than referred to in Article 66 under b.

3. In the event referred to in the second paragraph, the suspension will end after three months. The relevant Ministers may collectively extend the suspension with a maximum of three months each time. The relevant Ministers will collectively end the suspension if the grounds for the suspension have lapsed.

#### **Article 68**

The remuneration, any claims in case of illness as well as any other rights and obligations relating to the legal position of the members of the supervisory committee will be arranged by Order in Council in cases not provided for by law.

#### **Article 69**

1. The supervisory committee has a secretariat that renders assistance to the supervisory committee.
2. The persons belonging to the secretariat will be appointed, suspended and dismissed by Royal Decree on the recommendation of the relevant Ministers collectively and at the suggestion of the chairperson of the committee.
3. By Royal Decree, on the recommendation of the relevant Ministers collectively, it can be decided in which cases the persons belonging to the secretariat will be appointed, suspended and dismissed by the chairperson of the committee.

#### **Article 70**

Article 10, first and second paragraph, is applicable by analogy to the members of the supervisory committee and to the persons belonging to the secretariat on the understanding that the discharge referred to in the second paragraph, will be granted by the Prime Minister, Minister of General Affairs.

#### **Article 71**

For its activities the supervisory committee will draw up rules of procedure. These rules of procedures will be published in the Netherlands Government Gazette.

#### **Article 72**

The meetings held by the supervisory committee are not open to the public.

### **Section 6.2 The performance of its duties by the supervisory committee**

#### **Section 6.2.1 General provisions regarding the supervision**

#### **Article 73**

1. The relevant Ministers, the heads of the services, the co-ordinator and furthermore everyone involved in the implementation of this act and the Security Investigations Act will, if requested, furnish all information to the supervisory committee and will render all other assistance the supervisory committee deems necessary for a proper performance of its duties. The supervisory committee will have, upon its request, immediate access to the information processed in the context of the implementation of this act or of the Security Investigations Act.
2. When furnishing information as referred to in the first paragraph, when there is reason for this, it will be indicated which information in the interest of the national security is to be brought to the knowledge of the supervisory committee exclusively.

#### **Article 74**

1. If deemed necessary for the proper execution of its tasks, the supervisory committee may request the persons referred to in Article 73, first paragraph, as well as other persons to furnish information as a witness or as an expert and may summon these persons to appear before the supervisory committee.
2. The request will be made in writing and will state as far as possible the facts regarding which the witness or expert is to provide information. If the witness or the expert has been summoned to appear before the supervisory committee, the request will also state the place where and time at which this person will be heard and the consequences of non-appearing. The summons to appear will be made by registered letter or by recorded delivery.

3. The witness or the expert is obliged to provide all the information the supervisory committee deems necessary for a proper execution of its tasks and to this end the witness or expert, if the supervisory committee has indicated this in its request, must appear in person. The person appearing may be represented by a lawyer.
4. The obligation to appear before the committee does not apply to the relevant Ministers. If a Minister does not appear himself, he will appear by representation.
5. If a functionary involved in the implementation of this act appears as a witness or as an expert pursuant to this article, Article 86, second paragraph is not applicable.
6. The supervisory committee may order that persons who, despite being summoned to appear in accordance with the law, do not appear, are brought before the public authorities in order to comply with their obligations.
7. The witness or expert may claim exemption from giving information on account of his professional secrecy but only in so far as this concerns information that has been entrusted to him as such.

#### **Article 75**

1. The supervisory committee may order that witnesses will not be heard before taking the oath or making a solemn affirmation. In this case the witness will take the oath or make a solemn affirmation before the supervisory committee's chairperson stating that he will state the truth and nothing but the truth.
2. The experts are obliged to perform their task impartially and to the best of their knowledge.

#### **Article 76**

1. The supervisory committee is entitled if a proper performance of its tasks so requires, to assign certain activities to experts.
2. The expert who has accepted his assignment, is obliged to perform his task impartially and to the best of his knowledge.

#### **Article 77**

The supervisory committee or a member it has appointed to this end is entitled to enter all

places with the exception of a residence without the permission of its occupant, in so far as this is reasonably necessary for the fulfilment of its task. The committee or the appointed member can have himself accompanied by persons of the secretariat appointed by the chairperson as referred to in Article 69.

### **Section 6.2.2 Supervision**

#### **Article 78**

1. In the context of its supervisory task as referred to in Article 64, second paragraph, sub a, the supervisory committee is entitled to conduct an investigation into the way in which the provisions laid down in this act or the Security Investigations Act, have been acted on.
2. The supervisory committee may also carry out an investigation as referred to in the first paragraph at a request to this end by either of the two Chambers of the States General.
3. The relevant Minister and one or both Chambers of the States General will be informed of an intended investigation, if necessary in confidence.

#### **Article 79**

1. The supervisory committee will draw up a supervisory report as a result of the investigation it has performed. The supervisory report is public, except for the information referred to in Article 8, paragraph 3.
2. Before adopting the supervisory report, the supervisory committee will give the relevant Minister the opportunity within a term deemed reasonable by the committee to give his response to the findings contained in the supervisory report.
3. After receiving the response from the relevant Minister the supervisory committee will adopt the supervisory report. On the basis of its findings the supervisory committee can make recommendations to the relevant Minister regarding any measures to be taken.
4. After adoption by the supervisory committee the supervisory report will be sent to the relevant Minister.
5. The relevant Minister will send the supervisory report and his response to the two Chambers



of the States General within six weeks. Article 8, third and fourth paragraph shall apply by analogy.

### **Section 6.3 Reporting by the supervisory committee**

#### **Article 80**

1. Each year before 1 May the supervisory committee will report publicly on its activities. The report will be presented to the two Chambers of the States General and to the relevant Ministers. Article 8, third and fourth paragraph are applicable by analogy.
2. The public annual report will be generally available.

### **Section 6.4 Other provisions regarding the supervisory committee**

#### **Article 81**

1. Information that is provided to and held by the supervisory committee for the performance of its tasks by the relevant Ministers, the heads of the services, the co-ordinator and by other functionaries involved in the implementation of this act and the Security Investigations Act, is not public.
2. Requests to take cognisance of this information or requests for the publication of this information will not be complied with.
3. Article 44 is applicable by analogy to the archive material held by the supervisory committee, on the understanding that the relevant Minister is read as: the relevant Minister whom it concerns.

#### **Article 82**

The articles 15 and 16 are applicable by analogy to the supervisory committee.

### **Section 6.5 Handling of complaints**

#### **Article 83**

1. Each person is entitled to file a complaint with the National Ombudsman on the actions or the alleged actions of the relevant Ministers, the heads of the services, the co-ordinator and the persons working for the services and for the co-ordinator, with respect to a natural person or legal entity in the implementation of this act or the Security Investigations Act.
2. Before filing a complaint with the National Ombudsman the person filing the complaint will inform the relevant Minister whom it concerns of the complaint and he will enable him to give his view on the case.
3. Before giving his view as referred to in the second paragraph with respect to the complaint the relevant Minister will seek the advice from the supervisory committee. Section 9.3 of the General Administrative Law Act will be applicable. In derogation of Article 9:14, second paragraph of the General Administrative Law Act the relevant Minister cannot give any instructions to the supervisory committee.

#### **Article 84**

1. The National Ombudsman will render his decision on the complaint in writing to the person filing the complaint and, in so far as the security or other vital interests of the state do not dictate otherwise, state reasons.
2. The National Ombudsman will notify in writing the relevant Minister of his decision on the complaint. In this notification the National Ombudsman may state any reasoned recommendations which he deems appropriate. If in his opinion the purport of his recommendations gives rise to this, the National Ombudsman may state these reasons to the person filing the complaint.
3. The relevant Minister will inform the National Ombudsman in writing within six weeks of the consequences he attaches to the decision and to the recommendations.
4. The relevant Minister will send the decision and recommendations of the National Ombudsman and the consequences that the relevant Minister attaches to these to one or both chambers of the States General.

The recommendations made by the National Ombudsman, in so far as these have not also been communicated to the person filing the complaint, as well as the consequences attached to the decision by the relevant Minister, will be communicated confidentially to one or both chambers of the States General.

## **CHAPTER 7. SECRECY**

### **Article 85**

1. Without prejudice to the Articles 98 up to and including 98c of the Criminal Code each person involved in the implementation of this act who acquires information the confidentiality of which he is aware of or should reasonably be aware of, is obliged to secrecy regarding this information except in so far as he is obliged to make this information known pursuant to any statutory provision. This obligation will continue after the involvement in the implementation of this act has ended.
2. Article 272, second paragraph of the Criminal Code is not applicable in case of any acts or omissions in violation of the obligation laid down in the first paragraph.

### **Article 86**

1. The obligation to secrecy of a functionary involved in the implementation of this act does not apply to the person to whom the functionary is a direct or indirect subordinate nor in so far as he has been released from this obligation by a person who is his superior.
2. The functionary referred to in the first paragraph who pursuant to a statutory provision is obliged to appear as a witness or as an expert, will only make a statement regarding matters covered by the scope of his obligation to secrecy, in so far as the relevant Minister and the Minister of Justice have collectively relieved him from this obligation in writing. In this context with regard to functionaries who in their capacity have taken cognisance of information that has been provided by a service pursuant to Article 36, first paragraph, under a and b, 'the relevant Minister' will be considered to mean: the relevant Minister under whom the service falls

that has provided the information.

3. This Article applies by analogy in the event that the involvement in the implementation of this act has terminated.

### **Article 87**

1. In administrative procedures concerning the application of this act or of the Security Investigations Act regarding which the relevant Minister or the supervisory committee has been ordered by the District Court pursuant to Article 8:27, 8:28 or 8:45 of the General Administrative Law Act to provide information or submit documents, Article 8:29, third up to fifth paragraph, of this act will not be applicable. If the relevant Minister or the supervisory committee informs the District Court that only the District Court will be entitled to inspect the information or the documents, the District Court may only base its decision on this information or these documents with the permission of the other parties.
2. If the relevant Minister or the supervisory committee refuses to furnish the information or to submit the documents, Article 8:31 of the General Administrative Law Act will remain applicable. If the relevant Minister or the supervisory committee are obliged to submit documents to the District Court, it will suffice to allow inspection of the relevant documents. It is not in any way permitted to make a copy of the relevant documents.

### **Article 88**

If an advisory committee as referred to in Article 7:13 of the General Administrative Law Act has been set up regarding the decision on a notice of objection submitted against a decision by the relevant Minister, this committee will not have the power referred to in Article 7:13, fourth paragraph, of the General Administrative Law Act, in so far as it concerns the decision regarding the application of Article 7:4, sixth paragraph, of the General Administrative Law Act. Exercising this power remains reserved for the relevant Minister.

## **CHAPTER 8. CRIMINAL, TRANSITIONAL AND FINAL PROVISIONS**

### **Article 89**

1. Violation of the Articles 23, seventh paragraph, 24, third paragraph, 25, seventh paragraph, 28, sixth paragraph and 29, fourth paragraph, is punishable.
2. Violations of the acts punishable under the first paragraph are criminal offences in so far as these have been committed intentionally. In so far as these are not criminal offences, they are considered minor offences.
3. Violation of the facts punishable under the first paragraph will be punished
  - a. in case of a criminal offence, by imprisonment of a maximum of two years or a fine of the fourth category;
  - b. in case of a minor offence, by imprisonment of a maximum of six months or a fine of the fourth category.

### **Article 90**

The Articles 15, 16, 36, 41, 42, 43, 44 and the chapters 4, 6 and 7 are applicable by analogy to information processed by or on behalf of the intelligence and security services that have been discontinued, on the understanding that the powers and obligations concerned belong to the relevant Minister who holds the relevant information.

### **Article 91**

The General Administrative Law Act is not applicable to the preparation, conclusion and implementation of decisions based on Article 6, second paragraph, under d, Article 7, second paragraph, under e, and based on the chapters 3 and 5 within the context of the execution of the tasks referred to in Article 6, second paragraph, under a, c and d and Article 7, second paragraph, under a, c, d and e.

### **Article 92**

The Criminal Code will be amended as follows:

- A. Article 139a, third paragraph, under 3<sup>o</sup> will read as follows: 3<sup>o</sup>. for the implementation of the Intelligence and Security Services Act 2002.

- B. Article 139c, second paragraph, under 3<sup>o</sup> will read as follows: 3<sup>o</sup>. for the benefit of a proper functioning of a public telecommunications network, for the benefit of criminal procedure, or for the implementation of the Intelligence and Security Services Act 2002.

### **Article 93**

In Article 1:1, second paragraph of the General Administrative Law Act under replacement of the full stop at the end of part g by a semicolon, a new part will be added which reads: h. The supervisory committee pertaining to the intelligence and security services as referred to in Article 64 of the Intelligence and Security Services Act 2002.

### **Article 94**

The Public Servants Act will be amended as follows:

In Article 2, first paragraph under replacement of the full stop in part cc by a semicolon, after part cc a new part will be added which reads: dd. the chairperson and the members of the supervisory committee referred to in the Intelligence and Security Services Act 2002.

### **Article 95**

The Security Investigations Act will be amended as follows:

- A. In Article 2 'Military Intelligence Service', will be replaced by: Defence Intelligence and Security Service.
- B. In the Articles 2, 3, second paragraph, 4, first paragraph, 5, first paragraph, 7, first paragraph, 13, third paragraph, 'National Security Service' will each time be replaced by: General Intelligence and Security Service.
- C. In the Articles 2, 3, first paragraph, 4, third paragraph, 6, 8, first paragraph, 9, 10, first paragraph, 13, first and third paragraph and 16, second paragraph, 'the Minister of the Interior' will each time be replaced by: the Minister of the Interior and Kingdom Relations.
- D. In Article 1, section b, and Article 3, first and second paragraph, 'the security or other vital interests of the state' will each time be replaced by: the national security.
- E. In Article 7, second paragraph, 'the security or other vital interests of the state' will be replaced



by: the national security.

- F. In Article 13, fourth paragraph, 'the security or other vital interests of the state and of the power or international institution making the request', will be replaced by: the national security or the security or other vital interests of the power or international institution making the request.

#### **Article 96**

The Police Records Act will be amended as follows:

In Article 15, second paragraph, 'Intelligence and Security Services Act (Bulletin of Acts, Orders and Decrees 1987, 635)' will be replaced by: Intelligence and Security Services Act 2002.

#### **Article 97**

Article 1 of chapter 3 (Ministry of the Interior and Kingdom Relations) of the act of 5 April 2001 for the amendment of provisions regarding the processing of personal data (Bulletin of Acts 180) ceases to be effective.

#### **Article 98**

1. Regarding requests for information pursuant to the Freedom of Information Act concerning information processed by or on behalf of the services submitted before the coming into force of said act the provisions of this act will remain applicable.
2. The first paragraph is applicable by analogy if it concerns requests for information regarding information processed by the co-ordinator or by the intelligence and security services that have been discontinued.

#### **Article 99**

Article 34 is not applicable with regard to the special powers exercised by the services as referred to in the first paragraph of said article which have taken place before the coming into force of said article.

#### **Article 100**

The Telecommunications Act will be amended as follows:

1. Article 3.10, second paragraph, of the Telecommunications Act will read as follows:  
In agreement with the Minister of the Interior and Kingdom Relations or the Minister of Defence respectively, the relevant Minister may agree to the use of a frequency room that differs from the provisions of or pursuant to this chapter if this is necessary for the implementation of the tasks assigned to the General Intelligence and Security Service or the Defence Intelligence and Security Service as laid down in the Intelligence and Security Services Act 2002. The General Administrative Law Act is not applicable to the preparation, conclusion and implementation of a decision as referred in the first sentence.
2. In Article 13.2, first and second paragraph, after 'special mandate' is to be added: or permission on the basis of the Intelligence and Security Services Act 2002.
3. In the Articles 13.5, first paragraph and 13.6, second paragraph, after 'special mandate' is to be added: or permission on the basis of the Intelligence and Security Services Act 2002.
4. In Article 13.8 the first sentence will read:  
The relevant Minister in agreement with the Minister of the Interior and Kingdom Relations, the Minister of Defence and the Minister of Justice may grant an exemption for the obligations arising from this chapter.

#### **Article 101**

Article 2, second paragraph, under b, of the Personal Data Protection Act will read as follows:

- b. by or on behalf of the intelligence and security services, as referred to in the Intelligence and Security Services Act 2002.

#### **Article 102**

The Incompatibility of Office (States General and European Parliament) Act will be amended as follows:

1. In Article 1, second paragraph, under replacement of the full stop at the end of part e by a semicolon, a part will be added, which reads as follows:  
F. member of the supervisory committee, as referred to in Article 64 of the Intelligence and Security Services Act 2002.

2. In Article 2, first paragraph, under replacement of the full stop at the end of part g by a semicolon, a part will be added, which reads as follows:

H. member of the supervisory committee, as referred to in Article 64 of the Intelligence and Security Services Act 2002.

#### **Article 103**

The Intelligence and Security Services Act is repealed.

#### **Article 104**

After this act comes into force the Regulations on the special service Royal Netherlands Military Constabulary (Aanwijzingsregeling bijzondere dienst Koninklijke marechaussee) will be founded on Article 60, second paragraph, of this act.

#### **Article 105**

1. The Articles of this act will enter into force at a moment determined by Royal Decree. Individual articles or paragraphs may enter into force at different moments.
2. For the publication of this act the Prime Minister, Minister of General Affairs, will lay down the new numeration of the articles, paragraphs and chapters of this act, make consistent any quotations of articles, paragraphs and chapters in this act and replace the indications '19..' appearing in this act by the year of the Bulletin of Acts, Orders and Decrees in which this act will be published.

#### **Article 106**

This act will be referred to as: Intelligence and Security Services Act under reference of the year of appearance in the Bulletin of Acts, Orders and Decrees.

Orders and instructions that this will be published in the Bulletin of Acts, Orders and Decrees and that all ministries, authorities and functionaries whom it may concern, will strictly adhere to a strict and accurate implementation.

Presented at Lech, 7 February 2002

Beatrix

The Prime Minister, Minister of General Affairs, W. Kok

The Minister of the Interior and Kingdom Relations, K.G. de Vries

The Minister of Defence, F.H.G. de Grave

The Minister of Justice, A.H. Korthals

Published on the twenty-sixth of March 2002

The Minister of Justice, A.H. Korthals

#### **Note**

In the above text, all amendments made before 1 April 1994 have been inserted.

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