



NOBOA, PEÑA & TORRES
ABOGADOS ECUADOR

LEGAL BULLETIN No. 2

“REVIEW OF THE ORGANIC INTELLIGENCE LAW”

Dear Clients and Friends:

We wish to inform you that on June 11, 2025, the Organic Intelligence Law was published. This law aims to regulate the National Intelligence System and its subsystems; as well as the coordination and cooperation with supporting agencies, other State entities, and individuals or legal entities, whether public or private, within the framework of compliance with the Constitution and the Law.

Among the key points we highlight are:

NORMATIVE BACKGROUND

The origin of this law lies in the Public and State Security Law of 2009, as amended, which regulates the comprehensive security of the State by guaranteeing public order, coexistence, peace, and well-being for all inhabitants. That law established that security is achieved through welfare, the active participation of society, and national defense, including human security and respect for rights and cultural, political, and social pluralism, in accordance with the Constitution.

GENERAL REFERENCES TO THE NEW LAW

The new Organic Intelligence Law is closely linked to the aforementioned law. Its objective is to establish the legal framework for the National Intelligence System and its subsystems, regulating their operation, powers, and principles. It seeks to anticipate, prevent, or neutralize threats and risks to the comprehensive security of the State through intelligence and counterintelligence activities. The law grants the Presidency of the Republic the direction of the System, with access to public and private information, and protects the identity of its officials, who must act with integrity and honesty.

OPERATIONS

Intelligence and counterintelligence operations apply specialized techniques to collect and analyze relevant information, identifying opportunities and anticipating threats to the sovereignty and security of the State. These operations are divided into five levels: political-strategic, strategic, operational, tactical, and prospective. Operational units may act without

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judicial or administrative authorization, employing infiltration and camouflage techniques. The highest authority may request the retention or interception of documents or communications, always under the principles of necessity and proportionality. Information is classified as restricted, secret, and top secret, and the use of advanced technologies for data collection and analysis is permitted.

LIMITS

The system is oriented towards detecting threats or risks against the security of the State, although the concepts of “threat” and “risk” are broad and diffuse. The system primarily provides information to the President of the Republic. There are specialized subsystems, such as Tax and Customs Intelligence, responsible for preventing and combating crimes within their respective domains. The regulations are of public order and bind both individuals and legal entities, whether public or private.

DEFINITIONS IN THE LAW

The law defines several key concepts: **Threat:** Situations with the capacity and intent to attack vital interests of the State, encompassing political, social, economic, environmental, technological, and criminal domains. **Risk:** The probability of harm to national interests due to political, economic, or social phenomena. **Anticipation:** The ability to foresee and prepare for future events. **Cyberspace:** The interconnection of systems and individuals through technological networks. **Operations:** The search for and acquisition of information from open or closed sources. **Intelligence:** The obtaining and analysis of information regarding threats and risks, with strategic, operational, and tactical variants; various forms of intelligence are recognized.

GOVERNING ENTITY

The Governing Entity of the National Intelligence System, with ministerial rank, provides intelligence to the President, identifies high-value targets, and coordinates the exchange of information among state institutions. It regulates the subsystems and supervises intelligence and counterintelligence activities within the framework of the law.

POSITIONS AND REQUIREMENTS

The highest authority has relatively low requirements, needing only to be a natural-born Ecuadorian, enjoy political rights, have no final convictions, not belong to the Armed Forces or Police in active service, pass trustworthiness tests, and not be constitutionally disqualified. Intelligence specialists must be trained and may use cover techniques to protect their identity and security, acting in legitimate defense if necessary.

CONFIDENTIALITY

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All information handled by the National Intelligence System is classified, and its use requires the mandatory signing of confidentiality agreements. The protection and classification of information are reiterated in several provisions of the law.

RESOURCES AND CONTROLS

Operations have access to a permanent fund for special expenses, exempt from public procurement and tax regulations. The Comptroller General of the State oversees these resources, destroying the information after review. Accountability is rendered annually before the National Assembly in a closed session

INTELLIGENCE OF THE PRESIDENTIAL MILITARY HOUSE

A subsystem of intelligence is established for the Presidential Military House, responsible for protecting the President, Vice President, their families, and designated officials, both within and outside the country.

INFORMATION TO BE PROVIDED

All public institutions are obligated to provide, in a timely and complete manner, any information requested by the governing body of the National Intelligence System, including the delivery and updating of databases, without exception. The same obligation applies to individuals or legal entities, whether public or private, who must securely, directly, freely, and promptly provide the requested information.

NON-JUDICIALIZATION

Article 47 stipulates that reports generated or information provided are excluded from use as evidence in judicial, administrative, or disciplinary proceedings; furthermore, officials acting in accordance with this provision shall not be subject to judicial or administrative actions arising from the production or use of such information.

Several constitutional rights are at stake, including the right to seek, receive, exchange, produce, and disseminate truthful, verified, timely, contextualized, plural information without prior censorship concerning facts, events, and processes of public interest, with subsequent responsibility; and the right to freely access information generated by public entities or private entities that manage State funds or perform public functions (Art. 18), complemented by Article 91; the rights related to the conscience clause (Art. 20); the protection of personal data, privacy, inviolability of physical and virtual correspondence, and inviolability of domicile (Art. 66). Additionally, several fundamental guarantees established in Articles 76 and 77 of the Constitution are also at risk.



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We hope that you find this general information helpful. Please note that it is not intended to constitute legal advice. Should you have any specific inquiries, we would be pleased to provide further assistance.

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