

PRESIDENCE OF THE REPUBLIC

DECREE HAVING THE RANK, VALUE AND FORCE OF STATUTE
ON THE NATIONAL SYSTEM OF INTELLIGENCE
AND COUNTERINTELLIGENCE

STATEMENT OF MOTIVES

The purpose of adopting a normative framework regulating the organization, operation and competence of the bodies and entities constituting the National System of Intelligence and Counterintelligence, founded on the norms, principles and values established in the Constitution of the Bolivarian Republic of Venezuela and in enforcement of what has been ordered in the Organic Statute of the Nation's Security, reinforces the idea of the need to articulate a set of interrelated activities, which, as they become functionally integrated aim their efforts in the search, production and diffusion of activities, documents, information and objects, at a common objective, in order to achieve a mutual cooperation between the subsystems allowing to process the information originated at different fields in order to render assistance to the security, the Nation's defense and integral development.

The Decree Having the Rank, Value and Force of a Statute on the National System of Intelligence and Counterintelligence grants the National Executive the unique power in matters of intelligence and counterintelligence, in order to warrant the Nation's security, defense and integral development, which is to be developed guided by the principles of legality, honesty, coordination, corresponsibility, cooperation, competence, institutional loyalty, efficacy and efficiency, under strict observance of the constitutional rights and guarantees, in order to realize the necessary adjustments in accordance with the national reality.

Within the framework of the formerly mentioned context, where the National Executive requires the handling and provision of specialized information allowing it to develop and execute strategic planning in matters of the Nation's security, defense and integral development, for the sake of adopting decisions and the design of policies and strategies aimed at protecting and warranting the stability, integrity and permanence of the democratic institutions.

The purpose of this Decree Having the Rank, Value and Force of a Statute is to articulate the National System of Intelligence and Counterintelligence comprising among other things the collection, evaluation, analysis, integration, interpretation, diffusion and use of information referred to the threats, risks and conflicts affecting the internal and external security; as well as to identify strengths, opportunities and potentialities for the Nation's integral development, something that will turn out being of transcendent importance for these activities' evaluation, within the civil and military areas.

The material and organic design set in this Decree Having the Rank, Value and Force of a Statute, determines as a fundamental philosophic guideline the preventive, predictive and opportune nature of the information, documents and objects been produced on the occasion of the operational and investigative, generating the real possibility of early warning when determining threats, the dialog of conflictive or cooperative situations and their prognosis, as well as the identification of opportunities linked to the Nation's objectives and interests, allowing to get a general overall view of the State in the several areas defined in the constitutional text.

Base on the formerly stated considerations, the Decree Having the Rank, Value and Force of a Statute is structured in six (6) chapters and its transitory provisions, maintaining the following order:

The first chapter establishes the object, the scope of application and the principles governing the National System of Intelligence and Counterintelligence.

The second chapter defines the National System of Intelligence and Counterintelligence, its competences and operation, setting the grounds for the intelligence and counterintelligence activity from a material, organic and operational point of view.

Chapter three defines the Intelligence and Counterintelligence Systems, from the strategic and material point of view, and establishes the Civil Operational Intelligence and Counterintelligence System and the National Armed Force's Operational Intelligence and Counterintelligence System, from the organic and operational point of view.

In chapter four, related to the career and the activity's and means' reserve, special importance is given to the establishment of a system regulating the process of entry, permanence, initial and continuous, formation, habilitation, professionalization, specialization and development of the [male or female] officers, forming, on an exclusive dedication basis, the human talent of the several bodies and entities forming the National Intelligence and Counterintelligence System.

Chapter five determines the legal regime of items of evidence and their incorporation to the judicial process, as produced on the occasion of the operational and investigative activity.

Last, chapter six materializes what is ordered in the Constitution of the Bolivarian Republic of Venezuela, in the Organic Statute of the Nation's Security, the Organic Statute of Public Administration, and the Organic Statute of Administrative Procedures, regulating the information's and documents' classification, its general principles, the treatment and guarantee of the confidential or secret [nature], and the liability resulting from the publication or disclosure, as well as the treatment declassified documents.

Decree # 6,068

May 14, 2008

HUGO CHAVEZ FRIAS
President of the Republic

In use of the attributions upon him conferred by paragraph 8 of article 236 of the Constitution of the Bolivarian Republic of Venezuela and in accordance with provisions of paragraph 9 of article 1st of the Statute Authorizing the President of the Republic to adopt Decrees having Rank, Value and Force of a Statute in matters been delegated, in concord with provisions of article 26 of the Organic Statute of the Nation's Security, and article 3rd paragraph 8 of the Organic Statute of the National Armed Force, in Council of Ministers.

DICTATES

The following

**DECREE HAVING THE RANK, VALUE AND FORCE OF A STATUTE
ON THE NATIONAL SYSTEM OF INTELLIGENCE
AND COUNTERINTELLIGENCE**

CHAPTER I
GENERAL PROVISIONS

Object

Article 1st. The purpose of this Decree having the Rank, Value and Force of a Statute is to develop the organization, operation and competence of the National System of Intelligence and Counterintelligence, founded on the norms, principles and values established in the Constitution of the Bolivarian Republic of Venezuela and the statutes regulating the matter.

Scope of Application

Article 2nd. The rules and principles included in this Decree having the Rank, Value and Force of a Statute, are subject of mandatory compliance by:

1. The bodies, entities, male and female [sic] officers integrating the System contemplated by this Decree having the Rank, Value and Force of a Statute.
2. The bodies, entities or persons supporting the National Intelligence and Counterintelligence System.
3. The bodies, entities, male and female [sic] officers of all branches and levels of Public Power.
4. Those developing custody, prevention and security activities in the facilities and properties having a strategic value, within and outside the Bolivarian Republic of Venezuela.
5. Any person who, in performing activities within or outside the national territory may have, or have access to, information having a strategic interest for the Nation.
6. Any other body or entity to which the Constitution of the Bolivarian Republic of Venezuela may attribute competences related to those of the National Intelligence and Counterintelligence System

Every act having a legal or sub-legal rank being related with the subject matter of this Decree having the Rank, Value and Force of a Statute shall be ordered in compliance of the herein provided rules and principles.

Definition and principles

Article 3rd. The National Intelligence and Counterintelligence System is the organic and material set, formed by the bodies and entities heading and performing intelligence and counterintelligence activities under the principles of legality, honesty, coordination, corresponsibility, cooperation, competence, institutional loyalty, celerity, efficacy and efficiency, under strict observance of constitutional rights and guarantees, in order to obtain, process and diffuse the necessary strategic information in order to protect and warrant the democratic institutions' stability, integrity and permanence, in accordance with the Constitution of the Bolivarian Republic of Venezuela and the laws.

The National Intelligence and Counterintelligence System is by essence preventive, continuous, uninterrupted and intervenes on the factors favoring or promoting the risks and threats to the Nation's security.

The National Executive's Exclusive Competence

Article 4th. The development, organization and operation of the National Intelligence and Counterintelligence System, under its character and nature inherent to the Nation's security, defense and integral development, is of the National Executive's exclusive competence, in accordance with provisions of this

Decree having the Rank, Value and Force of a Statute and of acts having a sub-legal nature adopted in enforcement thereof.

CHAPTER II OF THE NATIONAL INTELLIGENCE AND COUNTERINTELLIGENCE SYSTEM

National Intelligence and Counterintelligence System

Article 5th. The National Intelligence and Counterintelligence System encompasses the search, production, information diffusion efforts, the planning and execution of operations concerning the Nation's security, defense and integral development, performed in observance of principles and by the bodies and entities established in this Decree having the Rank, Value and Force of a Statute.

This National System is subject to the authority of the National Executive through the body of the [male] or [female] Minister of the Popular Power for Internal Relations and Justice, within the civil field, and to the body of the [male] or [female] Minister of the Popular Power for the Defense, within the military field, shaped in a coordinated way at a strategic level, by the set of information and documents being reviewed and diffused by the Intelligence and Counterintelligence systems, and at an operational level by the bodies and entities shaping the Civil Intelligence and Counterintelligence Subsystem and the National Armed Force's Intelligence and Counterintelligence Subsystem, in order to obtain and process the information and documents, considering the field where these are found.

Competences

Article 6th. It is the responsibility of the National Intelligence and Counterintelligence System:

1. To obtain, process and provide to Mr. or Mrs. the President of the Bolivarian Republic of Venezuela or to whom he [she] shall designate, the information of strategic nature, in real time and with a predictive nature, with the purpose of establishing the measures that may be necessary in order to warrant the Nation's security, defense and integral development.
2. To identify, prevent and neutralize every internal or external activity performed by any factor pretending to attempt against the security, national sovereignty, constitutional order and democratic institutions.
3. To act in a coordinated manner in the field of its competence, in order to warrant the Citizens' Security and the Nation's Security.

4. To warrant the fulfillment of the interests and objectives set in the Constitution and the laws.

Operation

Article 7th. The planning, at the highest strategic level of the intelligence and counterintelligence activity shall be the responsibility of Mr. or Mrs. The Minister of Popular Power for Internal Relations and Justice and of Mr. or Mrs. The Minister of Popular Power for the Defense, in a coordinated manner and in the field of their competence; they shall establish the guidelines of the information search and processing effort.

Intelligence Activity

Article 8th. The intelligence activity comprises the planning and execution of actions aiming at obtaining, processing and diffusing the set of information and documents being produced regarding the forms of action of individuals and bodies corporate in countries, nations and blocks of nations, in order to detect in preventive manner the possible threats and vulnerabilities that may affect the Nation's security, defense and integral development.

Civil intelligence activity is that being developed in the economic, social, political, cultural, geographic and environmental fields, and the National Armed Force's intelligence activity is that being developed in the military field.

Counterintelligence activity

Article 9th. The counterintelligence activity comprise the planning and execution of actions seeking to obtain, process and diffuse the set of information and documents being produced on the ways of action within the national territory, as performed by individuals and bodies corporate, domestic or foreign, attempting against the stability of democratic institutions and constitutional order, with the purpose of detecting as a matter of prevention the possible threats and vulnerabilities that could affect the Nation's security, defense and integral development.

Civil counterintelligence activity is that being developed in the economic, social, political, cultural, geographic and environmental fields, and the National Armed Force's intelligence activity is that being developed in the military field.

Operational and Investigation Activity

Article 10th. The operational and investigation activity is that performed overtly or covertly by the bodies and entities forming the Subsystems of Civil and the Armed Force's Intelligence and Counterintelligence, within their areas of competence, in accordance with the principles, organization and operation established in this Decree having the Rank, Value and Force of a Statute, and in acts having a sub-legal rank done in enforcement thereof, protecting the fundamental rights and guarantees of individuals as provided in the Constitution of the Bolivarian Republic of Venezuela.

CHAPTER III OF THE SUB-SYSTEMS

Intelligence Sub-System

Article 11th. The Intelligence Sub-System is that set of information and documents obtained and processed by the bodies and entities performing intelligence activities both in the civil and military field, in accordance with the principles, organization and operation established in this Decree having the Rank, Value and Force of a Statute, and in acts having a sub-legal rank that may be done in enforcement thereof.

Counterintelligence Sub-System

Article 12th. The Counterintelligence Sub-System is that set of information and documents obtained and processed by the bodies and entities performing intelligence activities both in the civil and military field, in accordance with the principles, organization and operation established in this Decree having the Rank, Value and Force of a Statute, and in acts having a sub-legal rank that may be done in enforcement thereof.

Civil Operational Intelligence and Counterintelligence Sub-System

Article 13th. The Civil Operational Intelligence and Counterintelligence Sub-System is the set of bodies, entities, activities, information and documents being produced in the economic, social, political, cultural, geographic and environmental fields; in the domestic and international public and private sectors, which, in view of their nature and repercussion, are of vital importance in order to determine the vulnerabilities or strengths, both internal and external, affecting the Nation's security, defense and integral development, in accordance with the principles, organization and operation established in this Decree having the Rank, Value and Force of a Statute, and in acts having a sub-legal rank that may be done in enforcement thereof.

The Armed Force's Operational Intelligence and Counterintelligence Sub-System

Article 14th. The Armed Force's Operational Intelligence and Counterintelligence Sub-System is the set of bodies, entities, activities, information and documents being produced in the economic, social, political, cultural, geographic and environmental fields; in the domestic and international public and private sectors, which, in view of their nature and repercussion, are of vital importance in order to determine the vulnerabilities or strengths, both internal and external, affecting the Nation's security, defense and integral development, in accordance with the principles, organization and operation established in this Decree having the Rank, Value and Force of a Statute, and in acts having a sub-legal rank that may be done in enforcement thereof.

Bodies with Special Competence

Article 15th. Those bodies and entities forming the civil and the National Armed Force's intelligence and counterintelligence subsystems are Bodies with Special Competence, in accordance with their respective organic regulations adopted in enforcement of Decree having the Rank, Value and Force of a Statute; they shall provide for their organization, competence and operation.

The bodies with special competence shall exclusively perform the intelligence and counterintelligence, operational and investigation activities as provided in Decree having the Rank, Value and Force of a Statute, with the cooperation of the supporting bodies whenever it may be required.

Supporting Bodies

Article 16th. Individuals and bodies corporate, of public and private law, domestic or foreign, as well as the public administration bodies and entities whether national, state or municipal, the social networks, popular participation organizations and organized communities are to be deemed as Supporting Bodies, whenever the bodies with special competence should request their cooperation in order to obtain information or technical support.

The persons failing to comply with the herein established obligations are responsible in accordance with the Organic Statute of the Nation's Security and other acts with a legal or sub-legal rank applicable to the subject matter, by virtue of the fact that said conduct attempts against the Nation's security, defense and integral development.

Special Obligation

Article 17th. All the [male and female] offers being part of the Justice System shall assist in the performance of the intelligence and counterintelligence activities, in each of their phases, in order to safeguard the Nation's security, defense and integral development, in accordance with provisions in the Constitution of the Bolivarian Republic of Venezuela, in this Decree having the Rank, Value and Force of a Statute and in the set of rules in force.

CHAPTER IV OF THE ACTIVITY'S CAREER AND RESERVE AND THE MEANS

Intelligence and Counterintelligence Career

Article 28th. The Intelligence and Counterintelligence Career is the process of entry, permanence, initial and continuous formation, enabling, professionalization, specialization and development of the [male and female] officers forming, under exclusive dedication, the human talent of the several bodies and entities constituting the National Intelligence and Counterintelligence System.

The formation, professionalization and specialization of the [male or female] officers constituting the National Intelligence and Counterintelligence System shall be performed in accordance to uniform academic and curricular parameters, designed, in a coordinated and specialized manner according to the scope of action and in consideration of the Sub-system where their activities are to be performed, by the higher education institution to be created for such purpose.

The formation, professionalization and specialization referred to by this article, shall be determined in accordance to the need of the activity performed by the [male or female] officer, and it is an indispensable requirement for the promotion in the career and the assignment of office both in the civil and military filed.

The career and disciplinary regime for the civil officers integrating both operational sub-systems, shall be regulated by the Statute of the Intelligence and Counterintelligence Officers and by the effectively adopted Regulations.

The Activity's and the Means' Reserve

Article 19th. The operational and investigation procedures, and the use of any special or technical medium, designed, developed, adjusted or programmed for the procurement and processing of information, shall be put to use only by the bodies having a special competence and, as a consequence any activity of this nature developed by individuals or bodies corporate, of public or private law, domestic or foreign, have an unlawful nature and lead to liability under the terms provided by the law.

CHAPTER V OF THE PROBATIVE ACTIVITY

Principle of the Evidence's Legality

Article 20th. All the information, documents and objects inherent to the Nation's security, defense and integral development, obtained in the operational and investigative activity performed by the Bodies with Special Competence, shall have the criminal procedural nature of urgent and necessary formalities, without being subject to other temporal or material conditions provided by the law.

In the event that the formalities may apply to definite or non-reproducible, or whenever there may be founded fear of their extinction or disappearance, or when commission of a crime may be eminent, said formalities shall be performed by the Bodies with Special Competence without requiring any judicial or prosecutorial order; for such purpose this exceptional shall be justified by means of motivated act, with expression of the existence of any of the formerly established conditions and with indication that said operational and investigative activities are performed for the safeguard of the Nation's Security and Defense. The referred formalities' results shall have the nature of technical evidence and shall be freely incorporated to the pertinent judicial process, subsequently

allowing for materialization of the right of defense, under all its forms of expression and specifically to the control of evidence and to the debate.

The Evidence's Confidentiality or Secret

Article 21st. Whenever the operational intelligence and counterintelligence operational activity may require maintenance of confidentiality or secret with regard to the circumstantial and pre-constituted items of evidence, the same shall be kept in such condition and said classification may be lifted only when the objective inherent to the Nation's security, defense and integral development being subject to investigation would no longer be compromised, then allowing for its supervised incorporation at the opportune and corresponding procedural phase, warranting always the defendants' right of defense.

The Persons' Protection

Article 22nd. The Bodies with Special Competence shall warrant the protection of persons acting as informer, witnesses, experts, [male or female] collaborators, as well as [male or female] officers, and their relatives, in any way necessary, against any fact or situation, that may constitute a serious and eminent risk or danger, as determined by said bodies without need of any judicial order.

The Judicial Information's Protection

Article 23rd. The judicial authorities shall create conditions warranting the protection of information, documents and objects by them known, related to the intelligence and counterintelligence operational and investigative activities.

Persons' Cooperation

Article 24th. Persons may be required, within the framework of their fundamental rights' respect, to cooperate in order to perform operational and investigative procedures, maintaining the confidentiality or secrecy of their collaboration with the Bodies with Special Competence.

These collaborators shall treat as classified information all that they may have obtained during the preparation or performance of operational activities, under the terms established in this Decree having the Rank, Value and Force of a Statute.

CHAPTER VI OF THE CLASSIFICATION OF ACTIVITIES, INFORMATION, DOCUMENTS AND OBJECTS

General Principle

Article 25th. The activities, information, documents and objects of intelligence and counterintelligence, are a classified matter, whose contents have a confidential or secret nature, by the fact that they are inherent to the Nation's security, defense and integral development; whenever an interested party may

request access thereto, such classification shall be informed to such interested party under a motivated action.

Classification

Article 26th. For the purpose of this Decree having the Rank, Value and Force of a Statute one shall deem as confidential the information. Documents and objects classified as confidential, all those that may only be accessed by those issuing them or by those to whom they are expressly addresses and that, if disclosed, would affect the individuals or bodies corporate being referred.

For the purpose of this Decree having the Rank, Value and Force of a Statute one shall deem as activities. Documents and objects classified as secret, all those only the officers being authorized therefore under the several levels of reserve may have access, and that if revealed would affect the State's stability, the democratic institutions, the constitutional order, or would operate against national interest.

Treatment and Guarantees of what is Confidential or Secret

Article 27th. The activities, information, documents and objects having been declared confidential or secret, shall bear a sign evidencing such circumstance; their copies or duplicates shall have the same treatment as the original and may only be disclosed to other officers when it should be authorized by the officer being competent therefore. The officer or person having access to any act, document. Information, data or objects declared confidential or secret, shall be informed of their nature with the corresponding previsions.

Liabilities from Publication or Disclosure

Article 28th. The publication or disclosure of activities, information, documents and objects declared confidential or secret, shall carry civil, criminal and administrative liabilities, as provided by the law.

Declassified Documents

Article 29th. The documents being declassified under provisions of the law having historical or scientific values, shall be transferred to the Nation's Historic Archives, and shall be kept under permanent custody.

TRANSITORY PROVISIONS

First. Within the ninety (90) days following the coming in force of this Decree having the Rank, Value and Force of a Statute, the respective Organic Regulations establishing the organization and operation of the Civil Intelligence and Counterintelligence Operational Sub-System and of the Armed Force's Civil Intelligence and Counterintelligence Operational Sub-System, as well as the respective Organization and Operation Regulations of the formation institutes, inherent to each of the sub-systems, as referred to by this Decree having the

Rank, Value and Force of a Statute, complying with the special law governing the subject matter.

Second. The Organic Regulations of the Ministries of Popular Power for Internal Relations and Justice and of Popular Power for the Defense shall adjust themselves to provisions of the First Transitory Provision.

FINAL PROVISION

Sole. This Decree having the Rank, Value and Force of a Statute shall come in force as from its publication in the Official Gazette of the Bolivarian Republic of Venezuela

Given in Caracas, on the fourteenth day of the month of May, two thousand eight. Years 198th of Independence, and 10th of the Bolivarian Revolution.

Be it executed,
(L.S.)

HUGO CHÁVEZ FRÍAS

Countersigned

The Executive Vice President, RAMÓN ALONZO CARRIZÁLEZ RENGIFO
The Minister of Popular Power of the Office of the Presidency, JESSE CHACÓN ESCAMILLO

The Minister of Popular Power for Internal Relations and Justice, RAMÓN EMILIO RODRÍGUEZ CHACÍN

The Minister of Popular Power for Finances, RAFAEL EDUARDO ISEA ROMERO

The Minister of Popular Power for the Defense, GUSTAVO REYES RANGEL BRICEÑO

The Minister of Popular Power for Light Industries and Trade, WÍLLIAM ANTONIO CONTRERAS

The Minister of Popular Power Superior Education, LUIS ACUÑA CEDEÑO

The Minister of Popular Power for Education, HÉCTOR NAVARRO DÍAZ

The Minister of Popular Power para Labor and Social Security

The Chargé of the Ministry of Popular Power for Infrastructure, ISIDRO UBALDO RONDÓN TORRES

The Minister of Popular Power for the Environment, YUVIRÍ ORTEGA LOVERA

The Minister of Popular Power for Planning and Development HAIMAN EL TROUDI

The Minister of Popular Power for Science and Technology, NURIS ORIHUELA GUEVARA

The Minister of Popular Power for Popular Economy, PEDRO MOREJÓN CARRILLO

The Minister of Popular Power for Nourishing, FELIX RAMÓN OSORIO GUZMÁN

The Minister of Popular Power for Culture, FRANCISCO DE ASÍS SESTO NOVAS

The Minister of Popular Power for Housing and Habitat, EDITH BRUNELA GÓMEZ

The Minister of Popular Power for Social Participation and Protection, ERIKA DEL VALLE FARÍAS PEÑA

The Minister of Popular Power for el Sport VICTORIA MERCEDES MATA GARCÍA

The Minister of Popular Power for Telecommunications and Informatics, SOCORRO ELIZABETH HERNÁNDEZ

The Minister of Popular Power for Indigenous Peoples, NICIA MALDONADO MALDONADO

The State Minister Woman's Affairs, MARÍA LEÓN

Translation: Prof. Carlos Armando Figueredo