

Legislative amendments by the laws of Georgia as of:  
04 March 1998 - No. 1276; and  
19 March 1999 - No. 1853

## **Law of Georgia On State Secrets**

Based on the informational sovereignty of Georgia and universally recognized international principles regarding information, this Law shall regulate the legal relations with respect to defining information as a state secret, classifying it as secret and protecting it in order to protect vitally important national interests in the areas of defense, economy, external relations, intelligence service [19/03/99], state security and protection of law and order.

### **Chapter I General Provisions**

#### **Article 1. Definitions**

1. "State secret" – a kind of information that includes data containing a state secret in the areas of defense, economy, external relations, intelligence service [19/03/99], state security and protection of law and order disclosure or loss of which may inflict harm on the sovereignty, constitutional framework or political and economic interests of Georgia and which is deemed to constitute a state secret according to the rule prescribed by this Law and which is subject to the state protection.

2. "Secrecy level" – a category that signifies importance of the information, possible harm caused by its disclosure or loss, the degree of restrictions imposed on its availability and the level of the state protection applicable to the information.

3. "System of protection of state secrets" – the means and methods of secrecy protection used by the state bodies responsible for the protection of state secrets, as well as the measures undertaken for the same purposes.

4. "Classification as secret" – the restrictions imposed on access to and distribution of the information containing a state secret as defined by this Law.

5. "Declassification" – removal of the restrictions imposed on access to and distribution of the information containing a state secret as defined by this Law.

6. "Containing state secret information" – a document or other material thing that contains the information deemed to constitute a state secret.

7. "Access to a state secret" – a permission to perform work using the information containing a state secret granted to a state body, natural or legal person.

8. "The right to examine the information containing a state secret" – the possibility to examine the materials containing a state secret, given by a state official to the person having access to the state secret.

9. "Secrecy label" – an imprint that confirms the secrecy level of the information containing a state secret.

10. "Means of protection of information" – technical, cryptographic, software and other means of protection of the information containing a state secret.

#### **Article 2. Legislation of Georgia on State Secrets**

1. This Law and other normative acts shall constitute the legislation of Georgia on state secrets.

2. The legislation of Georgia on state secrets shall not apply to the relations with respect to protection of commercial, bank, financial, scientific-technical and invention-related secrets or other types of secret information unless such information simultaneously constitutes a state secret.

### **Article 3. The State Policy regarding State Secrets**

1. The state policy regarding state secrets, as a component part of the policy for ensuring sovereignty, defense and national security of Georgia, shall be developed by the Parliament of Georgia.

2. The state power bodies and local self-government bodies shall ensure implementation of the state policy within the scope of their competence vested in them by legislation.

3. The State Inspection for Protection of State Secrets is a specially designated body of the state executive power that shall carry out the organizational activities of protection of state secrets.

4. The Ministry of State Security of Georgia is a body of the state executive power that shall undertake measures for ensuring protection of state secrets and shall exercise control over their implementation.

5. The State Intelligence Department of Georgia is an executive agency that shall carry out the activities ensuring protection of state secrets with respect to diplomatic representations and organizations of Georgia located outside Georgia and to those persons on business trips outside Georgia whose activities are related to the information containing a state secret. [19/03/99]

### **Article 4. The Authority of the State Power Bodies in Defining Information as a State Secret and in Protecting the Secret**

1. The Parliament of Georgia:

a) Shall ensure the legislative regulation of protection of information containing a state secret;

b) Shall exercise parliamentary control over compliance with the legislation of Georgia on state secrets and with the international agreements;

c) Shall define the authority of those officials in the staff of the Parliament who ensure protection of state secrets in the Parliament;

d) Within the scope of its competence, shall decide on other issues with respect to defining information as a state secret and protecting it.

2. The President of Georgia:

a) Shall approve the "Procedure for Defining the Information as a State Secret and its Protection";

b) Shall approve the regulations and structure of the State Inspection for Protection of State Secrets, appoint and dismiss from office the head of the State Inspection.

c) Shall approve the list of the data defined as state secrets;

d) Shall approve the list of those officials who are authorized to define specific information as a state secret;

e) Shall approve the list of those officials who are authorized to grant access to a state secret;

f) Shall define the authority of those officials of the State Chancellery who ensure protection of state secrets in the Chancellery;

g) Within the scope of his competence and according to this Law, shall decide on other issues with respect to defining the information as a state secret and protecting it.

h) At the proposal of the confidence group of the Parliament of Georgia, shall be authorized to remove the secrecy label from the information classified as state secret which is submitted by the confidence group of the Parliament. [04/03/98]

3. The National Security Council of Georgia shall:

a) Develop and submit to the President for approval:

"The Procedure for Defining the Information as a State Secret and its Protection";

The list of the data to be defined as state secrets;

The list of those officials who are authorized to define specific information as a state secret;

The list of those officials who are authorized to grant access to a state secret.

b) Carry out organizational activities for drafting and implementation of the state programs in the area of protection of state secrets.

4. The central bodies of the state power of Georgia and the local governance bodies and the heads of these bodies:

- a) Shall ensure protection of the information containing a state secret entrusted to them;
- b) In accordance with the Georgian legislation, shall ensure protection of state secrets in the enterprises, organizations and institutions subordinated to them;
- c) Shall submit to the supreme bodies of the state power proposals for perfection of the system of protection of state secrets.

5. The judicial authority shall:

- a) Consider the criminal and civil law cases in the event of violation of the legislation of Georgia on state secrets;
- b) Ensure protection of state secrets during case reviews;
- c) Determine the amount of damages caused by dissemination or loss of the information containing a state secret as well as the amount of damages sustained by the possessor of the information as a result of disclosure of such data.
- d) Define the authority of the officials of the judicial branch with respect to protection of state secrets in the judicial bodies.

#### **Article 5. Defining the Information as a State Secret and Exercising Ownership Rights in a Medium of such Information**

1. The owner of the information defined as a state secret or the owner of a material medium of such information shall exercise the right of ownership therein taking into account the restrictions prescribed by this Law.

2. The rules and conditions for protection of a state secret, including the special regime of use and disposition of the information defined as a state secret or of the material medium of such information, shall be determined by a contract between the owner of the information (or of the medium) and the State Inspection for Protection of State Secrets entered into according to the provisions of this Law.

3. If the restrictions imposed on the right of ownership in the information defined as a state secret (or in the medium containing such information) provided for in the contract cause a loss to the owner, then the loss, including the lost income, shall be fully compensated to the owner at the expense of the state.

4. If the owner of the information containing a state secret (or of the medium of such information) refuses to enter into or breaches the contract, then, by a court decision, the information or the medium may be divested and transferred into state ownership. In such a case the court shall determine the amount of the compensation.

#### **Article 6. Financing the Activities for Defining the Information as a State Secret, Classifying it as Secret and Protection of the Secret**

1. The activities for defining the information as a state secret, classifying it as secret and protection of the secret in state bodies, organizations, institutions and treasury enterprises shall be financed out of the funds of the respective budgets.

2. Privately owned information defined as a state secret shall be protected on the grounds of the contract referred to in Article 5 of this Law.

3. The activities for defining the information as a state secret, classifying it as secret according to the Georgian legislation and protection of the secret in a non-treasury enterprise shall be financed on the grounds of the contract between the enterprise and the party that places the order for services related to the protection of the state secret.

## **Chapter II**

## Defining the Information as a State Secret

### Article 7. Information that may be Defined as a State Secret

Only the following information may be defined as a state secret:

1. In the defense sphere:
  - a) The information that contains strategic and operational plans, the documents on preparation and execution of military operations, issues related to strategic and operational relocation, mobilization and alertness of armed forces and use of mobilization resources;
  - b) Earmarked programs for the development of armament and defense technology, as well as scientific-technical and engineering works for the development of armament and defense technology;
  - c) The information on the regime of operation, structure and complement of highly classified military and civil defense objects.
2. In the economic sphere:
  - a) The information about the mobilization plans and capacities of the national economy, reserves and supply volumes of strategic materials and raw materials, as well as about the layout and volume of the state and mobilization resources;
  - b) The information about the operational regime and security systems of transport, communications and other infrastructure objects of the country, in order to ensure their safety;
  - c) The information about specific types of the state reserves included in the monetary component of the national gold reserve – precious metals, precious stones and other values, about the operations related to production, safekeeping, guarding, circulation, exchange or removal from circulation of the banknotes and securities, as well as about the operations related to prevention of counterfeiting.
3. In external affairs:
  - a) The information on the foreign policy and external economic relations of Georgia, disclosure of which may harm the state interests;
  - b) The information on the issues of military, scientific-technical and other types of cooperation with foreign states, disclosure of which may harm the interests of Georgia.
4. In the spheres of intelligence service [19/03/99], state security and protection of law and order:
  - a) The information on the plans, organization, material-technical supplies, forms, methods and results of the intelligence, counter-intelligence and dispatch-investigation operations, as well as on the financing of specific programs related thereto; the information on the persons who secretly cooperate or previously cooperated with the respective agencies of Georgia operating in these areas;
  - b) The information on security systems and regime of guarding of the top officials, administrative buildings and governmental residences of Georgia defined by the law of Georgia “On the Special Service of State Guarding”;
  - c) The information on governmental and special systems of communication;
  - d) The information on the development and use of the state encoding and on scientific-research works in cryptography.

### Article 8. Information that may not be defined as a State Secret

1. Defining any such information as a state secret that may prejudice or restrict basic human rights and freedoms or may cause harm to health and safety of population shall be prohibited.
2. Normative acts may not be defined as state secrets except for the acts of the Ministry of Defense, the Ministry of State Security, State Intelligence Department, State Department of Border Guarding and Special Service of State Guarding that regulate their internal activities directly related to state defense and security issues, and nor may the international agreements and treaties be defined as state secrets. [19/03/99]
3. Maps may not be defined as state secrets, except special military maps.

4. The following may not be defined as a state secret:
- a) Information on natural disasters, catastrophes and other extraordinary events which have already occurred or may occur and which threaten the safety of the citizens;
  - b) Information on environmental conditions, health and living standards of the population, including information on medical services and social security, as well as social-demographic data and data on educational and cultural levels of the population.
  - c) Information on corruption, unlawful actions of the officials and crime statistics;
  - d) Information on privileges, compensations and benefits provided by the state to the citizens, officials, enterprises, institutions and organizations;
  - e) Information on the state monetary fund and national gold reserve;
  - f) Information on health status of the top officials of the state power.

#### **Article 9. The Procedure of Defining the Information as a State Secret**

1. The state body or the enterprise, institution or organization that has developed or received for consideration or for safekeeping the information of interest shall be bound to justify the necessity of defining it as a state secret.
2. The head official of the state body, so authorized under subparagraph (2-d) of Article 4 of this Law, shall make the decision on defining the information as a state secret.

#### **Article 10. The List of the Data defined as State Secrets**

1. The State Inspection for Protection of State Secrets shall prepare for publication and publish in the official state periodicals the list of the data defined as state secrets.
2. Amendments and additions to the list of the data defined as state secrets shall be published within one month from the respective decision of the President of Georgia.
3. The State Inspection for Protection of State Secrets shall officially publish the list of the data defined as state secrets at least once in every 5 years.
4. If the list of the data defined as state secrets contains the information that fails to meet the requirements of Article 7 of this Law or that violates the procedure of defining the information as a state secret, then the interested persons shall have the right to appeal against such decision to a court, in accordance with the procedure prescribed by legislation.

#### **Article 11. Lowering the Secrecy Level; Revoking the Decision on Defining the Information as a State Secret**

Lowering the secrecy level or revocation of the decision on defining the information as a state secret shall be made by revoking or amending the decision on defining the information as a state secret, either because of the expiration of effectiveness of such a decision or based on the respective court decision within Article 10 of this Law, and shall be legalized by entering of the respective amendment into the list of the data defined as state secrets by the State Inspection for Protection of State Secrets.

### **Chapter III Classification of Information as Secret**

#### **Article 12. The Principles of Classification of Information as Secret**

1. The information shall be classified as secret in accordance with the principles of lawfulness, validity and timeliness.
2. The lawfulness of classification of the information as secret shall be determined on the grounds referred to in Articles 7 and 8 of this Law and in accordance with the procedure prescribed by the Georgian legislation.

3. The validity of classification of the information as secret shall be determined on the grounds of expert evaluation of the specific material, taking into account the vital interests of the state, the public and the citizens.

4. The principle of timeliness of classification of the information as secret shall be determined by restrictions imposed on disclosure of this information from the moment it was received (developed).

### **Article 13. The Secrecy Level of the Information; the Secrecy Label**

1. The information defined as a state secret shall be classified by assigning a secrecy label to the respective document, item or other material medium of the information.

2. A secrecy label is a necessary element attached to any material medium of the information containing a state secret. It shall signify the secrecy level attached to this information ("Of Extraordinary Importance", "Top Secret", "Secret"), the duration of classification of the information and the identity of the official who assigned the secrecy label.

3. The data marked with the secrecy label "Of Extraordinary Importance" is the data disclosure or loss of which may substantially compromise the interests of Georgia in defense, state security, economic and political spheres and would bring about the most severe consequences.

4. The data marked "Top Secret" is the data disclosure or loss of which may bring about severe consequences prejudicial to the interests of Georgia in defense, state security, economic and political spheres or to the interests of the persons defined in subparagraph (4-a) of Article 7 of this Law

5. The data marked "Secret" is the data disclosure or loss of which may negatively affect defense, state security, economic and political interests.

6. If the label cannot be directly attached to the material medium of the information, then it shall be attached to the accompanying documents.

7. A secrecy label defined in this Law may not be attached to such medium of information that contains secret or confidential information of other type, which does not constitute a state secret.

8. The head of the enterprise, institution or organization, which is engaged in the activities related to state secrets, shall approve the list of those officials who are authorized to assign a secrecy label to the medium of information.

9. If the time period fixed for the effectiveness of the classified status of the information expires or the secrecy level attached thereto is lowered or the decision on defining it as a state secret is revoked, then the official who classified the information shall be bound to change the secrecy label or to declassify the information.

### **Article 14. Duration of the Classified Status of the Information**

1. Duration of the classified status of the information shall depend on the secrecy level attached thereto. The information marked with the label "Of Extraordinary Importance" is classified for a term of up to 20 years, the information marked "Top Secret" – for a term of up to 10 years, and the information marked "Secret" – for a term of up to 5 years.

2. The term of the classified status shall be computed from the date on which the secrecy label is attached.

3. After expiration of the term of the classified status, the President of Georgia may, in extraordinary cases, prolong the term of the classified status.

4. Regardless of the secrecy level of the information, the President of Georgia, at the proposal of the confidence group of the Parliament of Georgia, shall be entitled to remove the secrecy label from the classified information submitted by the confidence group before the respective term referred to in paragraph (1) of this Article expires. [04/03/98]

### **Article 15. The Procedure for Classification of the Data containing a Secret**

1. The data shall be classified, i.e. a secrecy label shall be attached to the documents and other material objects, on the grounds that these data correspond to the list of the data defined as state secrets.

2. If the received (developed) data cannot be identified as the data on the effective list, then the head of the state body, institution, agency or enterprise shall be bound to ensure preliminary classification of the received data, taking into account the expected level of secrecy, and to communicate the respective proposal to the National Security Council within one week. The Security Council shall carry out the expert evaluation of the proposal and shall submit to the President for approval its proposal on amending the effective list.

#### **Article 16. Appeal against justified Classification of the Information**

1. The citizens and legal persons shall be entitled to submit to the official who classified the information a reasoned proposal for declassification of this information, which proposal must be considered. The official shall be bound to provide to the citizen or to the legal person a justified written answer within one month.

2. A decision on classifying the information as secret may be appealed to a court.

### **Chapter IV**

#### **Declassification of the Secret Information**

#### **Article 17. The Grounds for Declassification of the Secret Information**

1. The following shall constitute the grounds for removal of the secrecy label from the data:

a) The international obligations undertaken by Georgia with respect to open exchange of such data which previously constituted a state secret;

b) Change of factual circumstances after which protection of the information previously classified as state secret is no longer needed;

c) Expiration of the fixed term;

d) A proposal of the confidence group of the Parliament of Georgia, submitted to the President of Georgia, to remove the secrecy label from the specific information. [04/03/98]

2. The state bodies that classify the information shall be bound to reexamine the classification records annually so as to evaluate the necessity of the classification in each specific case.

#### **Article 18. The Procedure for Declassification of the Secret Information**

1. State secret information shall be declassified not later than expiration of the term for which the information was classified. The State Department of Archives shall declassify the secret information if so authorized by the owner organization of the state secret or by the organization's successor in title. If the State Department of Archives is not authorized to do so or if the organization has been abolished, then the State Inspection for Protection of State Secrets shall decide on the declassification.

2. In a case within subparagraph (1-a) of Article 17 of this Law the State Inspection for Protection of State Secrets shall have the right to declassify the information containing a state secret.

3. In the cases within subparagraphs (1-b) and (1-c) of Article 17 of this Law the respective body authorized to classify the information as state secret shall submit to the National Security Council its proposal on declassification of the state secret information. The National Security Council shall make the respective decision within one month from receipt of the proposal.

4. The President of Georgia, at the proposal of the confidence group of the Parliament of Georgia, shall be entitled to remove the secrecy label from the classified information of any level of secrecy submitted by the confidence group. [04/03/98]

### **Article 19. The Right of the State Bodies, Natural and Legal Persons to Raise the Question of Declassification of the Information**

1. A state body or a natural or legal person of Georgia shall have the right to apply to the bodies of the state power as well as to the enterprises, institutions and organizations (including the state archives) with the question of declassification of the information defined as a state secret.

2. The body of the state power or the enterprise, institution or organization (including the state archive) that has received such a request shall be bound to consider it and to produce a reasoned answer to the essential part of the question within one month. If this entity is not authorized to declassify the information, then the information shall be handed over to the properly authorized body of the state power or to the State Inspection for Protection of State Secrets within one week from the receipt of the request.

3. If an official evades considering the essence of the question, then disciplinary and administrative liability shall arise according to the effective legislation.

4. The validity of defining information as a state secret may be appealed to a court. If the court confirms that the information was classified without proper justification, then the information shall be declassified immediately.

5. If the court confirms that the information was classified without proper justification, the loss thereby sustained by the natural and legal persons, including the lost income incurred by the owner, shall be fully compensated at the expense of the state. The court shall determine the amount of the compensation in accordance with the effective legislation.

## **Chapter V Administering the Information containing a State Secret**

### **Article 20. The Permit for the Activities related to a State Secret issued to Enterprise, Institution or Organization**

1. The Ministry of State Security of Georgia shall grant the right to engage in the activities related to a state secret to an enterprise, institution or organization by issuing the respective permit.

2. The procedure and preconditions for issuance of such permits shall be defined in the "Procedure for Defining the Information as a State Secret and its Protection".

### **Article 21. Release of the Information containing a State Secret by a State Body, Enterprise, Institution or Organization**

1. A body of the state power, an enterprise, institution or organization shall release the information containing a state secret by sanction of the officials referred to in subparagraphs (2-d) and (2-e) of Article 4 of this Law.

2. A body of the state power, an enterprise, institution or organization that has received the information containing a state secret shall be bound to do its best to protect the state secret. The officials shall be personally liable for ensuring the protection of the information containing the state secret.

3. When releasing the information containing a state secret, the requirements of Article 20 of this Law shall be observed.

## **Chapter VI Protection of State Secrets**

### **Article 22. The Essence of Protection of State Secrets**

1. Protection of a state secret is the combination of organizational-legal, engineering-technical, cryptographic and operational measures aimed at avoiding disclosure of the information containing the state secret.



2. Implementation of these measures shall be ensured by the possessor of the state secret within the scope of its competence, on the grounds of the contract.

### **Article 23. The Fundamental Organizational-legal Measures for Protection of State Secrets**

In order to protect the state secrets, the following shall be prescribed:

1. The uniform requirements on manufacturing, using, safekeeping, transferring, transporting and inventorying of the mediums of the information classified as state secret.
2. The procedure and preconditions of issuing the permit to the enterprise, institution or organization for its activities related to state secrets.
3. The special operational regime (secrecy regime) of the abovementioned enterprise or organization.
4. The special procedure of the citizen's access to a state secret.
5. The restrictions on publication, handing over to another state or otherwise release of the information containing a state secret.
6. The special procedures of implementation of judicial, supervisory, controlling-inspection and other functions to be performed by the bodies of the state power with respect to the enterprises, institutions and organizations engaged in the activities related to state secret.
7. The liability for violation of the legislation of Georgia on state secrets.

### **Article 24. The uniform requirements regarding the mediums of the classified information and their safekeeping**

The uniform requirements on manufacturing, using, safekeeping, transferring, transporting and inventorying of the mediums of the state secret information shall be defined in the "Procedure for Defining the Information as a State Secret and its Protection".

### **Article 25. The Special Operational Regime of the Enterprise, Institution or Organization**

The special operational regime (secrecy regime) of the enterprise, institution or organization engaged in the activities related to state secret shall be defined in the "Procedure for Defining the Information as a State Secret and its Protection".

### **Article 26. Access to State Secrets**

1. Access to a state secret may be granted to a legally capable citizen of Georgia over 18 years of age who needs to examine the information containing a state secret for his official duties or for his scientific-research activities.
2. The decision on granting the access to the secret information shall be made by the head of the state body, enterprise, institution or organization in which the respective activities are carried out or in which the mediums of data related to such information are kept and that is authorized to grant access to the state secret.
3. In the supreme bodies of the state power, which according to the law of Georgia "On the Special Service of State Guarding" are guarded by the Special Service of State Guarding, the decisions on granting access to the secret information shall be made by the heads of these bodies on the grounds of the conclusion provided by the chief of the Special Service.
4. A citizen of Georgia may be denied access to the secret information only when there are no grounds defined in paragraph (1) of this Article.
5. A foreign citizen or a person without citizenship may be granted access to a state secret on the grounds of the international agreement and treaty or on the grounds of the written order of the President of Georgia.
6. Granting the access shall require:
  - a) Security clearance examination of the person for access to the state secret;

b) Undertaking of the obligation by the person that he will keep the state secret disclosed to him;

c) The written consent of the person to the restrictions on his rights, prescribed by law, necessitated by the access to the state secret.

d) Making the norms of liability for violation of the Law on State Secrets known to the person.

7. The form of access to the state secret information requested by the person shall be determined according to the secrecy level of the information ("Of Extraordinary Importance", "Top Secret", and "Secret").

8. The decision on whether or not to grant access to the state secret shall be made not later than 5 days from the end of security clearance examination of the person.

#### **Article 27. Access to the State Secret Denied**

Access to the state secret shall not be granted if:

1. The person fails to submit the justification for performing work with the information containing the state secret;

2. During the security clearance examination of the person the facts are revealed that the person has participated in an agreement for illegal activities of organizations or has participated in such association of the citizens activities of which are prohibited by the court decision or which is engaged in the activities prohibited by law, or if the facts are revealed that the person failed to observe the obligation to keep the state secret disclosed to him;

3. The person refuses to undertake the obligation to keep the state secret disclosed to him, or if there is no consent of this person to the restrictions on his rights, prescribed by law, necessitated by the access to the state secret;

4. The person was convicted by a court of a particularly serious crime against the state, as prescribed by law;

5. The person has been declared legally incapable by the court, or the person may not be granted access to the state secret because of the medical conclusion to that effect. Such diseases shall be determined by the Ministry of Health Care of Georgia and the State Inspection for Protection of State Secrets in accordance with the approved list.

6. The person intentionally gives misleading information about himself during the process of granting the access.

#### **Article 28. Security Clearance Examination of the Person in order to grant Access to the State Secret**

1. The security clearance examination of the person required for granting access to the state secret shall be carried out by the Ministry of State Security of Georgia within one month, in accordance with the rules prescribed by this Law, the law of Georgia "On Dispatch-investigation Operations" and other legislative acts.

2. The examination shall determine existence or nonexistence of the circumstances referred to in paragraphs (a), (b) and (d) of Article 27 of this Law.

3. The officials who are authorized to decide on granting access to state secrets shall be obligated to take into account the conclusions of the body that carried out the security clearance examination.

#### **Article 29. Appealing the Decision on Denial of Access to the State Secret**

1. The official authorized to decide on granting access to the state secret shall be bound to notify the applicant, in writing, of the reasons and grounds for the denial.

2. The person shall have the right to appeal the denial to a court.

#### **Article 30. Revocation of Access to the State Secret**

1. Access to the state secret may be revoked if the circumstances defined in Article 27 of this Law have been created or revealed.

2. At the request of the person, his access to the state secret shall be revoked within 3 days from filing the petition for revocation.

3. The official authorized to decide on granting access to the state secret shall make the decision on the revocation of the access. The person shall have the right to appeal the refusal to a court.

#### **Article 31. Making the State Secret Information available for Examination**

1. The information containing the state secret shall be made available for examination by the order of the head of that enterprise, institution or organization in which the mediums of this information are kept.

2. Foreign citizens and the persons without citizenship shall be granted access to the state secret in accordance with Article 26 of this Law. They shall be subject to the same rules as those applicable to the citizens of Georgia.

#### **Article 32. The Obligations of the Person having Access to the State Secret to keep the State Secret**

The person who was granted access to the state secret shall be bound:

1. Not to disclose the state secret which was entrusted to him or which was made known to him when performing his official duties;

2. To observe the requirements of the secrecy regime prescribed in accordance with Article 25 of this Law.

3. To notify the official who granted him access to the state secret of the circumstances that obstruct the person from keeping the state secret entrusted to him.

#### **Article 33. Restrictions on Publication of the Information containing a State Secret in the Press or other Media of Mass Information**

1. When preparing materials for publication in the press or other media of mass information, dissemination or sending them abroad, the enterprises, institutions, organizations and natural persons shall be bound to act in accordance with the requirements of this Law so as to protect the information containing a state secret.

2. The State Inspection for Protection of State Secrets shall exercise monitoring of the results of a disclosure of a state secret in the press or other media of mass information.

3. Preliminary control of a disclosure of a state secret in the press or other media of mass information shall not be allowed.

#### **Article 34. Restriction on handing over the State Secret to another State**

The information or the medium of information, which constitutes a state secret or which is preliminarily classified according to paragraph (2) of Article 15 of this Law until the decision on defining it as a state secret is made, may be handed over to another state only on the grounds of the international agreement or treaty ratified by the Parliament of Georgia or on the grounds of the reasoned order of the President of Georgia.

#### **Article 35. Engineering-technical Measures of Protection of State Secrets**

1. For the purposes of technical protection of the information, the enterprise, institution or organization engaged in the activities related to the state secret shall be bound to use limited-access means and technical devices of protecting, processing, transmitting and safekeeping of information that are certified according to the rules of technical protection.

2. The enterprise, institution or organization shall have the right to create and manufacture the systems and means securing the technical protection of state secrets and to perform maintenance

and technical protection works on these systems and means, as well as the right to cease providing maintenance only by the permission of the Ministry of State Security of Georgia.

3. The rule of certification and licensing referred to in this Article shall be defined in the "Procedure for Defining the Information as a State Secret and its Protection".

### **Article 36. Cryptographic Measures of Protection of State Secrets**

The cryptographic measures of protection of state secrets shall be defined in the "Procedure for Defining the Information as a State Secret and its Protection".

### **Article 37. Controlling Protection of State Secrets**

1. The head of the enterprise, institution or organization shall be obligated to establish the permanent control over securing the protection of state secrets.

2. The enterprise, institution or organization that on the grounds of the respective contract handed over the data containing a state secret to a natural or legal person shall have the right to exercise control over the protected status of that state secret.

3. The state bodies that are authorized to decide on the issues of availability of the information containing a state secret shall be obligated to exercise control over the protected status of the state secrets in all such enterprises, institutions and organizations that are engaged in the activities related to state secrets or that keep the mediums of such information.

4. The Ministry of State Security of Georgia shall be obligated to exercise control over the protected status of the state secrets in all bodies of the state power, all self-government bodies and in those enterprises, institutions and organizations that have obtained the right to engage in the activities related to state secrets.

5. If there is a justified cause that the provisions of this Law are violated, the Ministry of State Security of Georgia shall have the right to exercise control over the status of protection of the information defined as a state secret that is under the ownership of natural persons and non-governmental legal persons. Such an activity of the Ministry may be appealed to a court.

## **Chapter VII**

### **Liability for Violation of the Legislation of Georgia on State Secrets**

#### **Article 38. Liability for Violation of the Law of Georgia on State Secrets**

1. A person who violates the obligation to keep the state secret referred to in Article 32 of this Law or who fails to observe the restrictions on handing over the state secret to another state shall be liable according to the Georgian legislation.

2. An official or a state employee who:

a) Classifies as secret the information referred to in Article 8 of this Law;

b) Classifies the information as secret without justification;

c) Attaches a secrecy label to the medium of information which does not constitute or no longer constitutes a state secret;

d) Violates the requirements of Article 26 of this Law with respect to granting access to a state secret;

e) Violates the requirements of Article 19 of this Law;

f) Breaches the obligation to keep the state secret;

g) Fails to observe the restrictions on handing over the state secret to another state; or

h) Fails to exercise control over protection of state secrets,

shall be liable according to the Georgian legislation.

3. If a person has disclosed the information defined as a state secret which, according to this Law, should not have been defined as a state secret, then the question of his liability may be considered only after the validity of imposing secrecy on this information is established; and if it is found that the secrecy had been imposed illegally, then the person shall not be held liable.

4. Disclosure of a state secret by the person who did not know and reasonably should not have known that the information was secret shall not be deemed to constitute an offense.

5. If a medium of mass information made public a state secret and thereby caused a significant damage to the state security or to the international relations of Georgia, or thereby put in danger the lives of the individuals, then the editor on duty (the person responsible for the broadcast) shall be liable according to the Georgian legislation.

6. Publication by the media of mass information of such information containing a state secret publication of which is important for protection of the public safety or which was already published earlier shall not be deemed to constitute an offense.

President of Georgia

*Eduard Shevardnadze*

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