

UNOFFICIAL TRANSLATION

THE PARLIAMENT OF ROMANIA

LAW NO. 182/2002

ON PROTECTION OF CLASSIFIED INFORMATION

CHAPTER I

General Provisions

SECTION 1

Principles

Art. 1 – The purpose of this Law is to protect classified information and the confidential sources that provide it. The protection of such information is ensured by establishing the national system for the protection of classified information.

Art. 2 – (1) This Law grants access to public information.
(2) Access to classified information shall be granted only under the circumstances and terms provided by the law, with the observance of the legal procedures.

Art. 3 – No provision of the present Law shall be deemed as limiting the access to information of public interest or as eluding the provisions of the Constitution, the Universal Declaration on Human Rights, agreements or other treaties relating to the right to receive and disclose information, to which Romania is part of.

Art. 4 – The main objectives for the protection of classified information are:

- a) to protect classified information against espionage, compromise or unauthorized access, distortion or alteration of its content, as well as against sabotage and unauthorized damage;
- b) to ensure the security of the informatics and transmission systems of classified information.

Art. 5 – Measures deriving from the enforcement of this Law are meant:

- a) to prevent unauthorized access to classified information;
- b) to identify circumstances and individuals who, by their actions, could endanger the security of classified information;
- c) to ensure that classified information is released exclusively to those entitled to know it;
- d) to ensure the physical protection of classified information, as well as of the personnel required to protect classified information.

Art. 6 – (1) The national standards for the protection of classified information are mandatory and shall be established by the Romanian Intelligence Service, only with the approval of the National Security Authority.

(2) The standards referred to in subparagraph (1) shall be in accordance with the national interest and consistent with NATO criteria and recommendations.

(3) In case of a dispute between the domestic standards on the protection of classified information and the NATO standards, the NATO standards shall prevail.

Art. 7 – (1) The individuals who will have access to state secret information shall be subject to prior clearance regarding their loyalty and professionalism in handling such information.

(2) For candidates to public positions involving handling classified information, and the competence to grant access to this information, the vetting shall be conducted prior to their appointment, at the request of the vesting authority.

(3) The vetting procedures are those mandatory for employees of the National Security Authority handling NATO classified information,

according to the equivalence between the secrecy levels provided by this Law.

Art. 8 – The personnel specially designated to ensure the protection of classified information shall regularly participate in a permanent training and advanced training system, in conformity with the national protection standards.

Art.9– The protection of classified information refers to:

- a) legal protection;
- b) protection by procedural measures;
- c) physical protection;
- d) protection of personnel with access to classified information or designated to ensure its security;
- e) protection of information-generating sources.

Art. 10 – (1) The institutions holding or handling classified information shall keep a record of the security clearances issued under signature to their personnel.

(2) Each security clearance shall be reviewed whenever necessary to guarantee its consistency with the standards of the position filled by the individual.

(3) The reviewing of the security clearance shall be mandatory and shall be a priority whenever there are indications that maintaining it, is no longer consistent with the security interests.

Art. 11 – Access to buildings and IT infrastructures where classified information activities are carried out or where such information is stored is allowed only in authorized situations.

Art. 12 – The standards for the protection of classified information entrusted to individuals or organizations outside governmental structures shall be unconditionally consistent with those established for these structures.

Art. 13 – The request of issuing security clearance certificates for individuals with direct responsibilities in the field of the protection of classified information is mandatory.

Art. 14 – The Supreme Council of National Defense ensures the coordination of all programs for the protection of classified information, at national level.

SECTION 2

Definitions

Art. 15 – In the meaning of this Law, the terms below are defined as follows:

- a) *information* – any documents, data, objects and activities, irrespective of their frame, form, way of expression and issue;
- b) *classified information* – any information, data, documents of interest for the national security, which must be protected because of their degree of importance and the consequences that might arise due to their unauthorized disclosure or dissemination
- c) *secrecy classes* are: *secrete de stat* (state secret) and *secrete de serviciu* (restricted information);
- d) *state secret information* – any information related to the national security whose disclosure could be detrimental to the national security and state defense;
- e) *restricted information* – any information whose disclosure could be detrimental to a public or private legal entity;
- f) the secrecy levels are assigned to classified information within the state secret class, and they are:

- *strict secret de importanta deosebita* (equivalent to NATO COSMIC TOP SECRET) – information whose unauthorized disclosure may bring about damage of an exceptional gravity to the national security;

- *strict secret* (equivalent to NATO SECRET) – information whose unauthorized disclosure may bring about serious damage to the national security;

- *secret* (equivalent to NATO CONFIDENTIAL) - information whose unauthorized disclosure may bring about damage to the national security;

- g) *legal protection* – all constitutional norms and other legal provisions in force, that state the protection of classified information;
- h) *protection through procedural measures* – all regulations based on which the originators and holders of classified information settle the internal working and domestic order measures meant to ensure the protection of classified information;
- i) *physical protection* – all activities related to the safeguard, security and protection of classified information, carried out by measures and physical control devices and through technical means;
- j) *personnel protection* – all vetting procedures and measures applied to individuals who fulfill tasks related to classified information in order to prevent and deter security risks for the protection of classified information;
- k) *personnel security clearances* – documents certifying the vetting and authorization of an individual to hold, have access or handle classified information.

CHAPTER II

State Secret Information

Art. 16 – Protection of state secret information is an obligation incumbent upon authorized individuals who originate and manage such information or who are going to be entrusted with it.

Art. 17 – The state secret category includes information representing or relating to:

- a) national defense system and its basic elements, military operations, manufacturing technologies, technical specifications of arms and combat techniques used exclusively within the national defense system;
- b) military plans and units, troops and missions of the forces assigned;

- c) the national cipher code and other encrypting elements established by relevant state authorities, as well as the activities related to their creation and use;
- d) the organization of the protection and defense systems of the special and military targets, sectors and computer networks, their security mechanisms included;
- e) the data, schemes and programs related to special and military communication systems and computer networks, their security mechanisms included;
- f) intelligence activities carried out by the public authorities established by law, for national defense and security;
- g) means, methods, know-how and working equipment, as well as specific sources of information, used by the public authorities conducting intelligence activities;
- h) maps, topographic plans, thermo-grams and air recordings of any kind reproducing elements or objectives classified as state secret;
- i) studies, geological and gravimetrical surveys with a density higher than one dot/square kilometer by which national reserves of rare, precious, disperse and radioactive metals and ores, and the data and information related to material reserves under the authority of the State Reserves National Administration.
- j) systems and plans of electric power and heating and water supplies and other agents needed for the proper functioning of the facilities classified as state secret;
- k) scientific, technologic and economic activities and investments related to the national security or defense and of special importance for the economic, technical and scientific interests of Romania.
- l) scientific research in the field of nuclear technologies, excepting fundamental research, as well as the programs for the protection and security of nuclear materials and facilities.
- m) issuance and printing of banknotes, the coinage, the Romanian National Bank monetary pattern designs and the security elements of the monetary items against counterfeiting, not of public knowledge, as well as printing of securities such as state bonds, treasury bonds and government bonds for financing the budgetary deficit;

- n) the foreign relations and activities of Romania, which, according to the law, are not intended for public knowledge as well as information of other states or international organizations, whose protection is binding upon the Romanian state under international treaties and agreements.

Art. 18. – (1) State secret information shall be classified on secrecy levels based on the importance of the protected values.

(2) Secrecy levels assigned to state secret information are:

- (a) - strict secret de importanta deosebita (equivalent to NATO COSMIC TOP SECRET)
- (b) - strict secret (equivalent to NATO SECRET)
- (c) - secret (equivalent to NATO CONFIDENTIAL)

Art.19. – The authorities entitled to assign a certain secrecy level to the information, when it is drawn up, are:

- a) for strict secret de importanta deosebita (equivalent to NATO COSMIC TOP SECRET):
 - 1) the President of Romania;
 - 2) the Presidents of the Senate and Chamber of Deputies;
 - 3) members of the Supreme Council of National Defense;
 - 4) the Prime Minister;
 - 5) members of the Government and the Secretary General of the Government;
 - 6) the Governor of the Romanian National Bank;
 - 7) the Director of the National Intelligence Service;
 - 8) the Director of the Guard and Protection Service;
 - 9) the Director of the Special Telecommunications Service;
 - 10) the secretary General of the Senate and the Secretary General of the Chamber of Deputies;
 - 11) the President of the National Institute of Statistics;
 - 12) the Director of the National Administration of State Reserves;
 - 13) other authorities invested by the President of Romania or the Prime Minister;

- b) for strict secret (equivalent to NATO SECRET) – the persons under paragraph a) and the officials with the rank of secretaries of state, according to their area of competence;

- c) for secret (equivalent to NATO CONFIDENTIAL) - the persons under paragraph a) and b) and the officials with the rank of sub-secretaries of state, secretaries general or directors general, according to their area of competence.

Art. 20. – Any Romanian natural or legal person may dispute the classification of the information, its period of classification and the way in which the secrecy level was assigned to it, with the authorities that classified such information. The dispute shall be settled under the legal terms of the contentious administrative courts.

Art. 21. – (1) The National Registry Office for Classified Information shall be established and subordinated to the Government.

(2) The National Registry Office for Classified Information shall organize the accounting of lists and classified information, of the classification maintaining terms, of the personnel cleared and authorized to manage classified information, and of the records with security clearances mentioned at Art. 10.

Art. 22. – (1) The public authorities shall draw up their own lists with categories of state secret information related to their fields of activity.

(2) The lists with state secret information on classification levels, drawn up or held by public authorities or institutions shall be approved and updated under Government Decision.

(3) The Government Decisions on the endorsement of the lists with state secret information shall be notified to the Romanian Intelligence Service, Foreign Intelligence Service and, as appropriate, to other intelligence structures which, according to the law, are responsible for setting up specialized protective measures.

Art. 23. – (1) The institutions holding state secret information are responsible for establishing and enforcing the procedural measures of physical protection and protection of the personnel with access to such information.

(2) The measures under paragraph (1) shall be in conformity with the national standards for the protection of classified information.

Art. 24. – (1) The documents containing state secret information shall bear on each page the secrecy level and, when directed to certain persons, also the marking “personal”.

(2) Identification and marking rules, mandatory inscriptions and specifications on state secret documents, depending on their secrecy levels, requirements for recording the number of copies and addressees, time frames and condition of storage, interdictions of reproduction and circulation shall be established under Government Decision.

(3) Assignment of a secrecy level under Article 15 (f) as well as the standards related to the minimum protective measures within each level shall be established by Government Decision.

(4) Information classified according to Art. 15 (f) can be declassified under Government Decision at the justified request of the originator.

(5) Classification as state secrets, of information, data or documents with the purpose to conceal law violations, administrative errors, to limit access to information of public interest, to illegally restrict certain rights of a person or to cause damage to other legitimate interests shall be forbidden.

(6) Information, data and documents referring to a fundamental scientific research having no justified connection with national security shall not be classified as state secret.

(7) The public authorities working out or handling classified information shall draw up a guide for the correct and uniform classification of state secret information, in strict conformity with the law.

(8) The guide shall be approved personally and in writing by the senior official authorized to classify state secret information.

(9) The authorized persons who copy, make excerpts or summarize the content of certain secret documents shall apply the markings of the original document on the derived document.

(10) Declassification or downgrading of the information shall be made by the persons or public authorities entitled to approve the classification and the secrecy level of the respective information.

Art. 25. – (1) The specialized structure in the Romanian Intelligence Service shall coordinate the activity and the control of measures for the protection of state secret information.

(2) The Ministry of National Defence, the Ministry of Interior, the Ministry of Justice, the Romanian Intelligence Service, the Foreign Intelligence Service, the Guard and Protection Service and the Special Telecommunications Service shall establish, for their fields of

activity and responsibility, their own structures and measures regarding the coordination and control of the activities related to the protection of state secret information, according to the law.

(3) The specialized structure in the Ministry of National Defence shall coordinate and control the measures for the protection of state secret information for the Central State Office on Special Issues and National Administration of State Reserves.

(4) The Parliament, the Presidential Administration, the Government and the Supreme Council of National Defence shall set up their own measures for the protection of the state secret information, according to the law. The Romanian Intelligence Service shall provide specialized assistance to these institutions.

(5) The protection of information not intended for public knowledge, released to Romania by other states or international organizations as well as the access to their information shall be carried out under the terms of international treaties or agreements to which Romania is part of.

Art. 26. - (1) The Foreign Intelligence Service shall coordinate the activities and control of measures for the protection of state secret information at the Romanian missions abroad under the provisions of this law.

(2) The specialized structure in the Ministry of National Defence shall coordinate and control the measures for the protection of state secret information in what concerns the specific activity of defence attachés at the Romanian diplomatic missions and of military representatives to international bodies.

Art. 27. – The National Security Authority performs regulation, authorization and control tasks on the protection of NATO classified information, under the terms of the law.

Art. 28. – (1) Access to state secret information shall be granted only on the basis of a written authorization, issued by the head of the legal person holding such information, after prior notification to the National Registry Office for Classified Information.

(2) The authorization shall be granted for the secrecy levels under Art. 15 (f), following the vetting conducted on the person with his/her written consent. The legal persons, except those under Art 25

paragraphs (2) and (3), shall notify the National Registry Office for Classified Information on the issuance of the access authorization.

(3) Access to NATO classified information shall be granted based on the authorizations and security clearances issued by the National Security Authority, after the vetting has been conducted by the competent authorities.

(4) The validity period of the authorization is up to 4 years; during this period the vetting may be repeated whenever necessary.

(5) The denial of authorization or its justified withdrawal legally results in the interdiction to have access to state secret information.

Art. 29. – Managers of economic units or of other private legal persons as well as natural persons that were granted access to state secret information shall observe the provisions of the law related to the protection of such information within the cooperation relationships.

Art. 30. – Access of foreign citizens, of Romanian citizens who also have the citizenship of another state as well as of stateless persons to state secret information and places where state secret activities are carried out and objects or works of this category are exhibited shall be granted only under the circumstances and terms of the international treaties to which Romania is part of or under Government Decision.

CHAPTER III **Restricted Information**

Art. 31. – (1) Restricted information shall be established by the head of the legal person based on the standards provided by Government Decision.

(2) The information provided under paragraph (1) shall bear on each page the marking “personal”, when directed to certain persons.

(3) The provisions of Article 28 shall apply appropriately in the field of restricted information.

(4) Negligence in handling restricted information results in criminal liability, according to the law.

Art. 32. – Managers of public authorities and institutions, of economic units with integral or partial state share capital and of other private or public legal persons shall designate the information which are restricted and the rules to protect it, shall coordinate the activity and control the measures for the protection of restricted information, according to their competences and in compliance with the provisions established under Government Decision.

Art. 33. – Classification as restricted of the information which, by its nature or content, is designated to ensure public awareness on certain issues of public or private interest, in order to facilitate or cover law evasion or obstruct the justice shall be forbidden.

CHAPTER IV **Attributions of the Romanian Intelligence Service**

Art. 34. – In order to coordinate the activity and control the measures related to the protection of classified information within its area of competence, the Romanian Intelligence Service has the following attributions:

- a) to work out the national standards for classified information and their implementation objectives, in cooperation with the public authorities;
- b) to supervise the activities of public authorities for the implementation of this law;
- c) to provide specialized assistance for the programs designed to prevent the leakage of information drafted by public authorities and institutions, autonomous administrations and other companies holding such information;
- d) to control the manner in which the standards regarding the protection of classified information are observed and applied by the public authorities and institutions;
- e) to carry out checks and reviews of programs related to the protection of classified information, in certain locations;
- f) to cooperate with the National Registry Office for Classified Information and with the National Security Authority on all issues related to the implementation of the present law;
- g) to grant support for the setting of objectives and places of special importance for the protection of classified information, at the request

of the heads of public authorities and institutions, of economic units and private legal persons and to submit their centralized records to the Government's approval;

h) to organize, collect, transport and dispatch across the country the state secret mail and restricted official mail, in compliance with the provisions of the law;

i) to assess and establish measures relating to the complaints and suggestions on the implementation of the programs for the protection of classified information;

j) to identify any infringement of the norms on the protection of classified information, impose the contravention sanctions provided by the law, and notify the criminal investigation bodies in case of criminal offences.

Art. 35. - Annually or whenever deemed necessary, the Romanian Intelligence Service shall inform the Parliament and the Supreme Council of National Defence of the findings and conclusions related to the activity for the protection of classified information within its area of competence.

CHAPTER V **Obligations, Liabilities and Sanctions**

Art. 36. – (1) The persons who have been granted access to classified information shall ensure its protection and shall observe the provisions of the programs for the prevention of classified information leakage.

(2) The obligations under paragraph (1) shall continue after ceasing of work, duty or professional relationships, as long as the information remains classified.

(3) The person who is going to work or to be employed in a job requiring access to classified information shall provide to the head of the organization a written nondisclosure agreement.

Art. 37. – (1) Public authorities and other legal persons holding or being entrusted with state secret or restricted information shall provide the funds required to fulfill their obligations, and to take measures for the protection of such information.

(2) The responsibility for the protection of classified information rests with the head of the public authority, institution or other legal person holding such information.

Art. 38. – (1) State secret information shall be disseminated, carried and stored according to the legal provisions.

(2) It is forbidden to disseminate state secret information by wire or by air, without using means specific to the state cipher system or other cryptographic elements established by the competent public authorities.

Art. 39. - (1) Infringement of the norms on the protection of classified information entails disciplinary, contravention, civil or criminal liabilities.

(2) The authority shall be irrevocably removed to the persons employed in intelligence, security, army, foreign relations services, as well as to the persons specially assigned to protect state secret information who, willfully, or negligently, encouraged the disclosure or leakage of classified information.

Art. 40. – (1) Offences to the norms on the protection of classified information shall be established by Government Decision.

(2) Sanctions may be applied to legal persons as well.

CHAPTER VI **Final Provisions**

Art. 41. – (1) Special compartments where classified information is recorded, developed, processed, stored, handled and reproduced under safe conditions shall be set up within authorities, public institutions and economic units holding such information.

(2) The special compartments under paragraph (1) shall be subordinated to the head of the authority, public institution or economic unit.

Art. 42. – Not later than 60 days from the date when this Law is published in the Romanian Official Journal, Part I, the Government shall determine under Decision:

- a) the classification of the state secret information and the norms on the minimum protective measures within each level;
- b) general rules for the accountability, drawing up, storage processing, reproduction, handling, carriage, transmission and destruction of state secret information;
- c) facilities, premises or places with special relevance for the protection of information classified as state secret;
- d) obligations and liabilities of the authorities, public institutions and economic units, of other legal persons regarding the protection of classified information;
- e) norms on the access to classified information and the vetting procedure;
- f) provisions for photographing, filming, map-drawing, producing works of fine arts, in premises, areas or places with special relevance for the protection of information classified as state secret;
- g) regulations relating to the access of the foreign persons to state secret information;
- h) other norms relating to the enforcement of the present Law.

Art. 43. – This Law shall be effective 60 days from the date of its publication in the Romanian Official Journal, Part I.

Art. 44. – (1) On the date when this Law comes into force, Law no. 23/1971 on the protection of state secrets in Romania, published in the Official Journal, Part I, no. 157/17 December 1971, the Decision of the Ministers' Council no.19/1972 related to certain measures for the protection of state secrets, published in the Official Journal, Part I, no. 5 /14 January 1972, and any other contrary provisions shall be abrogated.

(2) On the same date, the phrase “state secrets” in the legal documents in force shall be replaced with the phrase “state secret information”.

This Law was ratified by the Chamber of Deputies in the meeting of 26th February 2002, with the observance of the provisions stipulated in Art 74 paragraph (2) of the Romanian Constitution.

This Law was ratified by the Senate in the meeting of 8th March 2002, with the observance of the provisions stipulated in Art 74 paragraph (2) of the Romanian Constitution.