

LAW OF GEORGIA

ON STATE SECRETS

Proceeding from the national security interests of Georgia and from universally recognised international principles in the field of information, this Law governs legal relations with respect to deeming certain information to be a state secret, and classifying and securing such information to protect the vital interests of the country in the areas of defence, economy, foreign relations, intelligence, national security, and law enforcement.

Chapter I - General Provisions

Article 1 - Definition of terms used in the Law

1. State secret - information available in the areas of defence, economy, foreign relations, intelligence, national security and law enforcement, the disclosure or loss of which can prejudice the sovereignty, constitutional order, political and economic interests of Georgia or of any party to the treaties and international agreements of Georgia and which, according to this Law and/or treaties and international agreements of Georgia, is predetermined as classified or deemed to be a state secret, and is subject to state protection.
2. Classification level - a category denoting the importance of the information and possible damage that may result from its disclosure or loss, the restrictions on access to the information and the level at which the information is secured by the State.
3. Security classification marking - a marking confirming the classification level of the information containing a state secret.
4. State secret protection system - means and methods used to protect state secrets, and measures carried out for this purpose.
5. Classification - identifying certain information to be a state secret as determined by this Law.
6. Declassification - removing the restrictions determined by this Law with respect to the information that is deemed to be a state secret.
7. Information containing a state secret - a document or a tangible object (irrespective of its form or nature), that has been processed or is being processed, which must be secured from unauthorised access, contains data/information on state secrets in the areas of defence, economy, foreign relations, intelligence, national security and law enforcement, and which is recognised as a state secret according to the legislation of Georgia.
8. Classified Information of the North Atlantic Treaty Organization (NATO) - information determined by NATO [as classified] and having the relevant classification level.
9. Need to know - a principle under which only those persons who have a confirmed requirement for access to information containing state secrets for the conduct on their official, professional and/or scientific-research activities are granted the right to view and/or receive such information.
10. Guaranteed right to access state secrets - ensuring access of persons defined in Article 18 of this Law to state secrets as determined by the legislation of Georgia, upon their election/appointment to office.
11. Granting state bodies/legal persons access to state secrets - based on the need-to-know principle, granting authorisation to state bodies/legal persons to perform activities related to state secrets defined in this Law and other normative acts.
12. Granting natural persons access to state secrets - based on the need-to-know principle, granting authorisation to natural persons to perform activities related to state secrets defined in this Law and other normative acts.
13. Granting legal persons access to NATO classified information - based on the need-to-know principle, granting authorisation to legal persons to perform activities related to the NATO classified information defined in this Law and other normative acts.
14. Granting natural persons access to NATO classified information - based on the need-to-know principle, granting authorisation to natural persons to perform activities related to NATO classified information defined in this Law and other normative acts.
15. Security background investigation - special measures carried out by a competent state body according to the legislation of Georgia to ascertain the trustworthiness and reliability of a natural person or of a state body/legal person in order to grant them access to a state secret.
16. Handling information containing a state secret - performing any possible action with respect to information containing a state secret, in particular, creating, processing, collecting, transferring, transporting, storing, protecting, using, accounting for, changing the classification level, declassifying, archiving and destroying information containing a state secret.
17. Classified contract (treaty, agreement) - a contract (agreement, treaty) concluded between the parties and a contractor or between a contractor and a sub-contractor, which contains information containing state secrets or on the basis of which such information may be created.

Article 2 - Legislation of Georgia on state secrets

1. This Law is based on the Constitution of Georgia, treaties and international agreements of Georgia and other normative acts.
2. The legislation of Georgia on state secrets does not apply to the protection of commercial or bank secrets, of financial, scientific-technological, or



invention-related secrets or other secret information unless such information is classified as a state secret.

Article 3 - National policy on state secrets

1. The Parliament of Georgia formulates the national policy on state secrets as an integral part of the policy for ensuring the sovereignty, defence and national security of Georgia.
2. State and local self-government bodies of Georgia ensure the implementation of the national policy on state secrets within the powers vested in them by the legislation of Georgia.
3. The State Security Service of Georgia shall:
 - a) ensure the implementation of organisational measures to protect state secrets;
 - b) take measures to ensure the protection of state secrets;
 - c) monitor the implementation of the measures defined in sub-paragraphs (a) and (b) of this paragraph.
4. The Intelligence Service of Georgia is a special-purpose agency of executive authority directly subordinated to the Prime Minister of Georgia that, within its powers, implements measures to ensure the observance of the state-secret regime both within its own agency and in relation to diplomatic missions and consular offices, and in relation to Georgian citizens and their family members on prolonged business trips, who, by virtue of their official capacity, are connected to information containing a state secret.

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Article 4 - Powers of the State in deeming certain information as a state secret and in protecting state secrets

1. The Parliament of Georgia shall:
 - a) ensure legislative regulation of the protection of information containing a state secret;
 - b) exercise parliamentary control over compliance with the legislation of Georgia and with the treaties and international agreements of Georgia on state secrets;
 - c) define the rights of the officials of the Staff of the Parliament who ensure the protection of state secrets in the Parliament of Georgia;
 - d) make decisions, within its powers, on issues relating to deeming certain information to be a state secret and protecting such information.
2. The President of Georgia shall:
 - a) with the powers vested in him/her by the Constitution of Georgia in the areas of defence and foreign relations of the country, make decisions in accordance with to this Law on deeming certain information to be a state secret and on protecting such information;
 - b) define the list of officials of the National Security Council of Georgia and of the Administration of the President of Georgia who are authorised to deem specific information to be a state secret and who ensure the protection of state secrets;
 - c) approve the list of officials authorised to grant natural persons access to information classified by the President of Georgia.
3. The Government of Georgia shall:
 - a) approve:
 - a.a) the Procedure for Deeming Certain Information to be a State Secret and for Protecting Such Information;
 - a.b) the list of information deemed to be a state secret;
 - a.c) the list of officials authorised to deem specific information to be a state secret;
 - a.d) the list of officials authorised to grant natural persons access to state secrets;
 - b) define the powers of the officials of the Administration of the Government of Georgia who ensure the protection of state secrets within the Administration of the Government of Georgia;
 - c) within its powers, decide issues related to deeming certain information/information to be a state secret and to protecting such information according to this Law.
4. On the proposal of the Group of Confidence of the Parliament of Georgia, the Prime Minister of Georgia may declassify information containing a state secret.
5. The executive and local self-government bodies of Georgia and their heads, within the scope of their authority, shall:
 - a) ensure the protection of information containing a state secret;



- b) ensure the protection of state secrets in enterprises, organisations and agencies under their subordination;
- c) submit proposals to the Government of Georgia for perfecting the state secret protection system.

6. The judiciary shall:

- a) hear criminal, administrative and civil cases related to information containing state secrets;
- b) ensure the protection of state secrets in the course of trials;
- c) determine the extent of the damage caused by the dissemination or loss of any information containing a state secret, and the extent of the damage that the holder of the information has suffered as a result of the disclosure of such information;
- d) define the powers of the officials of the judiciary who ensure the protection of state secrets within the judiciary.

7. The procedure and conditions for accessing, handling, receiving, disclosing and storing information containing state secrets related to the production of lari banknotes and coins intended for circulation, to the accounting for the cash of the National Bank of Georgia intended for circulation, and to the transportation outside Georgia of the cash and the valuables of the National Bank of Georgia containing precious metals, is defined by a legal act of the Board of the National Bank of Georgia, based on an agreement with the State Security Service of Georgia and the Intelligence Service of Georgia.

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Article 5 - Financing measures for classifying and protecting information containing a state secret

Measures for classifying and protecting information containing a state secret shall be financed from the budget of the relevant state body, enterprise, institution or organisation (irrespective of its legal form) and/or under a contract concluded with the contractor for the performance of work related to a state secret.

Chapter II - Information Containing a State Secret

Article 6 - Information that may be deemed to be a state secret

The following information may be deemed to be a state secret:

- a) in the area of defence:
 - a.a) information containing strategic and operations plans, or documents reflecting the preparation and execution of military operations, information relating to the strategic and tactical movements of troops and other units, their mobilisation and combat readiness, and the use of mobilisation resources;
 - a.b) information on target programmes for the development of armament and military equipment, and information on the research and development and design works pertaining to the development of new types of military weapons, equipment and defence technologies;
 - a.c) information on the regime, structure and composition of military and civil defence facilities that are defined by a legal act of the Minister of Defence of Georgia;
- b) in the area of the economy:
 - b.a) information on mobilisation plans and capacities, on the stocks and the volumes of supply of strategic raw material and products for military purposes, on the location and volume of the inventories of state and mobilisation reserves and of the repositories for storing these inventories, and information on the performance of construction and repair works in these repositories;
 - b.b) information on the security systems and security regimes for transportation, communications, and other branches and facilities of the national infrastructure, in order to ensure their security;
 - b.c) information on operations related to the manufacture, storage, protection, counterfeit prevention, circulation, exchange and withdrawal from circulation of accountable forms (except for accountable forms of the National Bank of Georgia);
 - b.d) information on the transportation of the cash and the valuables of the National Bank of Georgia containing precious metals, on the storage, protection and accounting for the cash of National Bank of Georgia intended for circulation, on the production, counterfeit prevention, circulation, exchange and withdrawal from circulation of lari banknotes and coins, the early disclosure of which may prejudice the national interests;
 - b.e) information on the performance of construction and repair works in information-processing centres (server centres) of the National Bank of Georgia where the information of the National Bank of Georgia are electronically processed and stored, and information on the protection and security of these facilities;
 - b.f) information on the design and construction and repair works to be performed or already performed in the facilities of the National Bank of Georgia where operations related to cash and other valuables are conducted; information on the engineering means, construction and repair materials, and the labour force used in the course of the construction of these facilities, and information on their technical condition, protection and security;
- c) in the area of foreign relations:



- c.a) information on the foreign policy and foreign economic relations of Georgia, the early disclosure of which may prejudice national interests;
- c.b) information on matters of military, scientific and technological and other types of cooperation with foreign states, the disclosure of which may prejudice the national interests;
- d) in the areas of intelligence, national security and law enforcement:
 - d.a) information on the intelligence, counter-intelligence, criminal intelligence and covert investigative activity plans, organisation, logistical support means, forms, methods and results, and information on the planning, implementation and financing of specific measures and programmes;
 - d.b) information on persons who, in the areas defined by sub-paragraph (d) of this article, cooperate or used to cooperate on conditions of confidentiality with the relevant Georgian authorities that carry out respective activities;
 - d.c) information on persons who are involved in a special programme for the protection of a party to criminal proceedings;
 - d.d) information on the protection of top government officials of Georgia and the security regime of administrative buildings and government residencies defined by the legislation of Georgia;
 - d.e) information on the security regime of the detention and imprisonment enforcement system;
 - d.f) information on governmental and special communications systems;
 - d.g) information on technical safeguards and software of state information systems; on cybernetic means and software used for intelligence, counter-intelligence and criminal intelligence purposes; on technical and software specifications of information systems designed to protect state secrets; on technical and software means and methods used in cyberspace to detect and prevent unlawful acts against the national interests of Georgia; information on the processing and use of state ciphers and information on scientific and research works in the field of cryptography;
 - d.h) information on the operation of the systems of control of the protection of the air and maritime spaces and the land borders of Georgia;
 - d.i) information on the anticipated threats against Georgia and on the measures to be implemented to avert such threats;
 - d.j) information on specific measures that are planned or are to be implemented by the Government, ministries and other agencies of Georgia on the occupied territories of Georgia, the early disclosure of which may prejudice the national interests.

Article 7 - Information that may not be deemed to be a state secret

1. Information that may prejudice or restrict the fundamental rights and freedoms of a person, his/her legal interests, or cause harm to the health and safety of the population may not be deemed to be a state secret.
2. Normative acts, including treaties and international agreements of Georgia, other than normative acts of the relevant agencies, which are related to national interests in the areas of defence, national security and law enforcement and which govern the activities of these agencies in the areas of defence, intelligence, national security, law enforcement and criminal intelligence activity, may not be deemed to be a state secret.
3. Maps, other than military and special maps that contain information or data on national defence and security as defined in the List of Information Deemed to be a State Secret, may not be deemed a state secret.
4. The following information may not be deemed a state secret:
 - a) information on natural disasters, calamities and other extraordinary events that have already occurred or may occur and that pose a threat to the safety of citizens;
 - b) information on the condition of the environment and the health of the population, its living standards, including health care and social security, and on social-demographic indicators, and on educational and cultural levels of the population;
 - c) information on corruption, illegal acts committed by officials and on crime rates;
 - d) information on privileges, compensations, monetary rewards and benefits granted by the State to citizens, officials, enterprises, institutions and organisations;
 - e) information on the state monetary fund and national gold reserve;
 - f) information on the health status of public and political officials.

Chapter III - Classification of Information Containing State Secrets

Article 8 - Principles of classification of information containing state secrets

1. Information containing state secrets is classified based on the principles of legality, validity and timeliness.
2. The legality of classification of information that contains a state secret shall be determined under Articles 6 and 7 of this Law and as provided for by the legislation of Georgia.



3. The validity of classification of information that contains a state secret shall be determined based on the conformity of this information with the List of Information Deemed as a State Secret.
4. The principle of timeliness of classification of information that contains a state secret shall be determined by restrictions imposed on the dissemination of such information from the moment of its receipt (development).

Article 9 - Classification level of information containing a state secrets; security classification marking

1. Information deemed to be a state secret shall be classified by assigning a relevant security classification marking to such information.
2. A security classification marking is a necessary element attached to the information containing a state secret. It must confirm the classification level of such information, and indicate the classification period and the official who assigned this marking.
3. The following security classification markings are determined based on the classification level of information:
 - a) 'Of Exceptional Importance' (equal to -TOP SECRET)
 - b) 'Top Secret' (equal to - SECRET)
 - c) 'Secret' (equal to - CONFIDENTIAL)
 - d) 'For Limited Use' (equal to - RESTRICTED).
4. The information that is marked with the security classification marking of 'TOP SECRET' is the data dissemination or loss of which may substantially affect Georgia's interests in defence, economy, national security, law enforcement and politics, and/or may have exceptionally grave consequences for any of the countries or organisations who are parties to the treaties or international agreements of Georgia.
5. The information, that is marked with the security classification marking of 'SECRET' is the data dissemination or loss of which may have adverse consequences for Georgia's defence, national security, law enforcement, economic and political interests, and may harm the interests of the persons defined in Article 6(d.b) of this Law, and/or the disclosure of which may have grave consequences for any country or organisation which is a party to the treaties or international agreements of Georgia.
6. The information, that is marked with the security classification marking of 'CONFIDENTIAL' is the data dissemination of which may prejudice Georgia's defence, national security, law enforcement, economic and political interests and may harm the interests of the persons defined in Article 6(d.b) of this Law, and/or the disclosure of which may prejudice the interests of a country or organisation which is a party to the treaties or international agreements of Georgia.
7. The information that is marked with the security classification marking of 'RESTRICTED' is the data dissemination of which may adversely affect Georgia's defence, national security, law enforcement, economic and political interests and/or the interests and activities of a country or organisation which is a party to the treaties or international agreements of Georgia.
8. If the security classification marking cannot be directly assigned to the tangible medium of information, it must be assigned to the accompanying documents.
9. If the fixed classification period expires and the classification level of the information containing a state secret is changed or the decision on deeming certain information to be a state secret is cancelled, the official who classified the information shall be obligated to change the security classification marking or to declassify the information.

Article 10 - Classification period of information containing a state secret

1. Classification period for information containing a state secret depends on the classification level of the information. The classification period for TOP SECRET information is up to 20 years, for SECRET information 10 years, for CONFIDENTIAL information 5 years and for RESTRICTED information 3 years. The heads of services that carry out intelligence, counter-intelligence and/or criminal intelligence activities may prolong the classification periods of information related to such activities if its declassification may prejudice the national interests of the State. The classification period of state secrets recognised according to procedures laid down by the treaties and international agreements of Georgia shall be prolonged, declassified or their security classification markings shall be changed based on the requirements of these treaties and international agreements.
2. The classification period of information containing a state secret shall commence on the day on which the security classification marking is assigned to it.
3. After the expiry of the classification period, the Prime Minister of Georgia may prolong the classification period.
4. The President of Georgia may prolong the classification period of the information classified by him/her.

Article 11 - Procedure for classifying information containing a state secret

1. The basis for classifying information shall be its correspondence with the List of Information Deemed to Be a State Secret.
2. The state body, enterprise, institution, or organisation (irrespective of its legal form) that developed the information or received it for review and/or storage shall substantiate, taking into account its importance, the necessity to deem this information as a state secret.



3. The authorised persons defined in Article 4(2)(b) and (3)(a.c) of this Law shall decide on deeming certain information to be a state secret.

4. If the received (developed) information cannot be identified as the information on the List of Information Deemed to be a State Secret, the head of the administrative body shall ensure preliminary classification of the received (developed) information, taking into account the expected classification level and submit its proposal, for expert assessment, to the Government of Georgia within one week. The Government of Georgia shall, within one month, decide on the appropriateness of amending the List of Information Deemed to be a State Secret.

Article 12 - Changing the classification level of information containing a state secret. Cancelling an unlawful and/or unreasoned decision on deeming certain information to be a state secret

1. An authorised person/administrative body that classified the information according to the legislation of Georgia or its superior authorised person/administrative body may on its own initiative or on the reasoned instruction of the State Security Service of Georgia:

- a) cancel the decision deeming certain information to be a state secret;
- b) change the classification level of the information containing a state secret.

2. A court may also cancel an unlawful and/or unreasoned decision deeming certain information to be a state secret.

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Article 13 - Destruction of information containing state secrets

1. Information containing a state secret shall be destroyed in such a way that its content cannot be restored either fully or partially.

2. TOP SECRET information may not be destroyed, except as provided for by paragraph 3 of this article.

3. In the case of urgent necessity or other extremely urgent necessity when information containing a state secret cannot be properly protected or there is an actual threat of its disclosure or loss, a duly authorised person shall immediately destroy such information.

4. The procedure for destroying information containing a state secret is defined by the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information.

Article 14 - Duplicating and translating information containing a state secret

1. Information containing a state secret may be duplicated and translated only in the case of official need to know and only by a person who is authorised access to such information.

2. The number of copies of documents containing a state secret shall be limited to the number of copies needed for official purposes.

3. The copy/translation of a document containing a state secret shall be assigned the same security classification marking as the original of this document. The copy/translation of a document containing a state secret shall be protected in the same manner as the original of this document.

4. TOP SECRET information may not be duplicated. Such information may be translated only if so provided for by the treaties and international agreements of Georgia.

5. SECRET information may be duplicated only with the written consent of the official who has assigned this security classification marking to the information.

6. The duplication or translation of information containing a state secret may be restricted or disallowed by the official who assigned the security classification marking to this information.

Article 15 - Appealing the decision on classifying/declassifying information

1. A state body, a natural or legal person may appeal the decision on classifying/declassifying information as determined by the legislation of Georgia.

2. A state body, or a natural or legal person may submit to the official who assigned the security classification marking to the information medium a substantiated proposal for declassification of this information. The official shall review the proposal and provide the initiator of the proposal a response within one month.

3. A state body or natural or legal persons shall submit the information specified in paragraph 2 of this article to the official/institution in such a form that will not prejudice the state secret or national and public security interests.

Chapter IV - Declassification of Information Containing State Secrets



Article 16 - Basis for declassifying information containing state secrets and for removing the security classification marking

1. The following shall serve as the basis for declassifying information and for removing the security classification marking:
 - a) the international obligation assumed by Georgia to openly exchange the information that is a state secret;
 - b) a change in the factual circumstances as a result of which it is no longer necessary to protect the information that is a state secret;
 - c) the expiration of a fixed classification period;
 - d) the decision of the Prime Minister of Georgia;
 - e) the decision of the President of Georgia on declassifying the information classified by him/her.
2. The state bodies, enterprises, institutions and organisations (irrespective of their legal form) that classify information shall annually review the classification records in order to assess the necessity of classification in each specific case.

Article 17 - Procedure for declassifying information containing a state secret

1. Information containing a state secret shall be declassified not later than the expiration of the period for which it was classified. In the case provided for by Article 16(1)(c) of this Law, any information containing a state secret shall be declassified by the entity that classified the information as a state secret and/or by the Legal Entity under Public Law (LEPL) - the National Archive of Georgia of the Ministry of Justice of Georgia if so authorised by the holder of the state secret or by its successor in title. If the LEPL National Archive of Georgia is not authorised to do so and/or the said entity no longer exists, then the State Security Service of Georgia shall decide whether or not to declassify the information containing a state secret.
2. In the case provided for by Article 16(1)(a) of this Law, the State Security Service of Georgia may declassify the information containing a state secret.
3. In the case provided for by Article 16(1)(b) of this Law, the question of whether or not to declassify the information containing a state secret shall be decided by the entity that classified the information as a state secret or by its successor in title in agreement with the State Security Service of Georgia, but if such entity no longer exists, by the State Security Service of Georgia on its own initiative or based on the proposal of the interested state body, or natural or legal person.
4. In the case provided for by Article 16(1)(b) of this Law, the prosecutor may also declassify, in the manner prescribed by law, the documents containing information on criminal intelligence and covert investigative activities.
5. In the case provided for by paragraph 3 of this article, the State Security Service of Georgia shall communicate its response to the initiator regarding the declassification of information not later than one month after receiving the relevant proposal. If more time is required to prepare the response, the State Security Service of Georgia may prolong this period up to two months, of which it shall notify in writing the initiator before the period of one month expires. If the decision is not made within the specified time limits, the question of declassification shall be deemed to have been decided.
6. In the case provided for by Article 16(1)(d) of this Law, the Prime Minister of Georgia, at the proposal of the Group of Confidence of the Parliament of Georgia, may declassify the classified information of any classification level submitted by the Group of Confidence.
7. Only the President of Georgia may, within the powers vested in him/her by law, decide to declassify the information classified by him/her. The decision of the President of Georgia shall be communicated to the State Security Service of Georgia.

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Chapter V - Granting Access to State Secrets

Article 18 - Guaranteed right to access state secrets

The President of Georgia, the Prime Minister of Georgia, a member of the Government of Georgia, the Chairperson of the Parliament of Georgia, the Public Defender of Georgia, a member of the National Security Council, the General Auditor of the State Audit Office of Georgia, the Chairperson of the Constitutional Court of Georgia, the Chairperson of the Supreme Court of Georgia, the President of the National Bank of Georgia, and the Head of the General Staff of the Georgian Armed Forces are granted access to state secrets upon their appointment.

Article 19 - Granting state bodies/legal persons access to state secrets

1. Security clearance for state bodies/legal persons to access a state secret shall be issued to those state bodies, enterprises, institutions, or organisations (irrespective of their legal form) that have physical, technical and organisational capabilities to properly handle the information containing a state secret and that need to know this information.
2. The authorised structural unit of the State Security Service of Georgia shall decide on granting state bodies/legal persons access to state secrets based on the results of the security background investigation and issue relevant permits for not more than five years.
3. The procedure and conditions for issuing, suspending and revoking the permit referred to in paragraph 2 of this article are defined by the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information.



Article 20 - Granting natural persons access to state secrets

1. Any legally competent citizen of Georgia who has attained the age of 18 may be granted access to a state secret, based on the results of a security background investigation, in cases where there are grounds provided for by this Law and by other normative acts
2. The head of the state body/legal person that has access to the state secret shall decide on granting natural persons access to the state secret with the consent of the authorised structural unit of the State Security Service of Georgia. The relevant unit of the State Security Service of Georgia shall be notified of this decision.
3. The procedure for granting aliens and stateless persons access to state secrets and for revoking the access is defined by the treaty and/or international agreement of Georgia or by the relevant ordinance of the Government of Georgia.
4. The right to access to the information containing state secrets related to the production of lari banknotes and coins intended for circulation, the accounting for the cash of the National bank of Georgia intended for circulation, and to the transportation outside Georgia of the cash and the valuables of the National Bank of Georgia containing precious metals shall be granted by the National Bank of Georgia, in agreement with the State Security Service of Georgia.
5. The head of the Intelligence Service of Georgia, without agreement with the State Security Service of Georgia, makes decisions on granting access to state secrets to the employees of the Intelligence Service of Georgia who are directly involved in intelligence activities. The list of the employees of the Intelligence Service of Georgia defined by this paragraph is approved by the head of the Intelligence Service of Georgia.
6. Granting access to state secrets involves:
 - a) submission by the person of documents required by the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information;
 - b) a security background investigation;
 - c) undertaking of the obligation by the person not to disclose state secrets confided to him/her;
 - d) the person's written consent to the statutory limitation of his/her rights due to the access to the state secret;
 - e) informing the person of the liability for violating this Law.
7. The form of granting natural persons access to the required information shall be determined according to the security classification markings (TOP SECRET, SECRET, CONFIDENTIAL, RESTRICTED) of such information.

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Article 21 - Denial of access to state secrets

1. Access to state secrets may not be granted to a person if:
 - a) the person does not provide evidence confirming the need to know the information containing a state secret;
 - b) the person prejudices or will prejudice the national and public security interests, the life and health of the population, and human rights and freedoms, based on the factual circumstances revealed as a result of the security background investigation and based on the low degree of trustworthiness and reliability;
 - c) the person refuses to undertake an obligation not to disclose the state secrets confided to him/her or does not consent to the statutory limitation of his/her rights due to the access to state secrets;
 - d) the person provides wrong information about himself/herself.
2. The person may, within the period established by the legislation of Georgia, appeal the decision on the denial of access to state secrets or on revocation of access to state secrets to a superior official and/or a court.

Article 22 - Security background investigation of a person for granting access to state secrets

1. The State Security Service of Georgia shall conduct the security background investigation of a person within three months after receiving the documents specified in Article 20(6)(a) of this Law, according to the procedures provided for by this Law, the Law of Georgia on Counter-Intelligence Activity, the Law of Georgia on the State Security Service of Georgia, and the Law of Georgia on Criminal Intelligence Activity and by other legal acts.
2. The period determined by paragraph 1 of this article may be extended, but for not more than three months, with the consent of the superior official of the structural unit conducting the security background investigation.
3. A security background investigation shall establish the existence or non-existence of the circumstances under Article 21(1) of this Law.
4. Officials who make decisions on granting access to state secrets shall take into account the report of the security background investigation.



Article 23 - Revoking access to state secrets

1. Access to a state secret may be revoked if:

- a) the circumstances under Article 21(1) of this Law have arisen or have been identified;
- b) the person has been removed from office or his/her term of office has been terminated.

2. An official/body authorised to make decisions on granting access to a state secret shall decide on its revocation. The relevant structural unit of the State Security Service of Georgia shall be notified of this decision.

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Article 24 - Obligations of a person who has been granted access to state secrets

A person who has been granted access to a state secret shall:

- a) not disclose the state secret which has been confided to him/her or for which he/she has become aware;
- b) comply with the requirements provided by the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information;
- c) inform the authorised official of the circumstances preventing him/her from protecting the state secret.

Chapter VI - Protecting State Secrets

Article 25 - Essence of protecting state secrets

1. Protection of a state secret means a combination of organisational-legal, cryptographic and operational measures intended to prevent the disclosure of information containing a state secret.

2. The holder of a state secret shall, within scope of its authority, ensure implementation of the measures defined in paragraph 1 of this article.

3. The Government of Georgia shall determine special physical, personnel (staff), information, communication and information systems security procedures to protect the information containing state secrets.

Article 26 - Main organisational and legal measures for protecting state secrets

To protect state secrets, the following shall be introduced under the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information:

- a) uniform requirements for handling information deemed to be a state secret;
- b) the procedure for granting state bodies/legal persons access to state secrets and a special operational regime/secretcy regime;
- c) the procedure for granting natural persons access to state secrets;
- d) the procedure for restricting the publication, delivery to another state or other kind of dissemination of information containing a state secret;
- e) the procedure for handling electronic information containing a state secret;
- f) the special procedure for state bodies to exercise judicial, supervisory, controlling and examination, and other functions in relation to legal or natural persons carrying out activities related to state secrets.

Article 27 - Electronic communications and information systems

1. In order to handle information containing a state secret only those electronic communications and information systems may be used that have appropriate technical and software means of protection.

2. The permit to use communications and information systems designed for electronic handling of information containing a state secret shall be issued, and the control over the use of such systems, without examining the information, shall be exercised by the State Security Service of Georgia

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Article 28 - Monitoring the protection of state secrets

1. The head of the body that assigned the security classification marking to the information containing a state secret shall establish permanent monitoring over the protection of the state secret.
2. The body that assigned the security classification marking to the information containing a state secret, which hands over such information to a natural or legal person under a contract, may monitor the security status of this information.
3. The State Security Service of Georgia shall monitor the security status of state secrets in all bodies which have been granted access to state secrets or which hold information containing a state secret.

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Chapter VII - Restrictions on the Transfer and Publication of Information Containing a State Secret; Making the Information Available for Examination and Transferring the Information

Article 29 - Making the Information containing a state secret available for examination and/or transferring such information

1. Information containing a state secret shall be made available for examination with the consent of the authorised official of the state body, enterprise, institution or organisation (irrespective of its legal form) where such information is retained, or with the consent of the prosecutor in charge of the procedural part of criminal cases.
2. The body that classified the information as a state secret shall release such information with the written consent of the authorised officials defined in Article 4(2)(b) and (3)(a.c) and (a.d) of this Law.
3. State bodies, enterprises, institutions or organisations (irrespective of their legal form) that receive and/or develop information containing state secrets shall create and comply with all conditions required by the legislation of Georgia for protecting such information. The authorised person shall be personally responsible for protecting information containing a state secret.
4. Information containing a state secret may be transferred, based on the need to know, to a legal person that has the security clearance to access the state secret.

Article 30 - Restrictions on the transfer of state secrets to other states, international organisations or residents of other states

1. The information or information medium which is a state secret or is preliminarily classified according to Article 11(4) of this Law may be transferred to another state, an international organisation or a resident of another state before the decision on deeming it to be a state secret is made, only on the basis of the treaty or international agreement ratified by the Parliament of Georgia or on the basis of a reasoned decree of the Government of Georgia.
2. Based on the national interests of the State, a classified contract (agreement, treaty) may be concluded by a decree of the Government of Georgia with another state (with which Georgia has not concluded the relevant agreement), or with the international organisation/resident of another state (which has not been granted the appropriate security clearance in the manner prescribed by the legislation of Georgia).
3. The requirements of paragraphs 1 and 2 of this article shall not apply to the information containing a state secret that is exchanged with and transferred to the countries involved in operations for the maintenance and restoration of international peace and security and in other peacekeeping operations in order for the sub-units participating in such operations to accomplish military operational missions and objectives.

Article 31 - Means of transferring information containing state secrets

The bodies designated (diplomatic, postal, special communication services) for transferring information containing state secrets shall use special physical, technical and software means and other means provided for by the treaties and international agreements of Georgia.

Article 32 - Restricting the publication of information containing state secrets in the press and in other mass media, and in the web space

1. When preparing material for publication or dissemination in the press or other mass media, or in the Internet, or for exporting it abroad, the state bodies, enterprises, institutions, organisations (irrespective of their legal form) and natural persons shall be guided by the requirements of this Law to protect the information containing state secrets.
2. If state secrets are published in the press and other mass media, or in the Internet, the State Security Service of Georgia shall analyse the consequences of their publication.
3. The preliminary control over the publication of state secrets in the press and in other mass media, or in the Internet, is prohibited.

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Article 33 - Body responsible for the security of NATO classified information

1. The Ministry of Defence of Georgia is an executive authority responsible for the security of NATO classified information. To control and manage NATO classified information, there shall be set up a unified system of coordinated registries in Georgia, which comprises the registry of NATO classified information of the Ministry of Defence of Georgia and the sub-registries created in other agencies/bodies.
2. Sub-registries in the Ministry of Defence of Georgia shall be created by an order of the Minister of Defence of Georgia, while in other agencies/bodies sub-registries shall be created by a legal act of the head of the respective agency/body, in agreement with the Minister of Defence of Georgia.

Article 34 - Classifying NATO classified information

1. The correspondence between the security classification markings and the classification levels of NATO classified information is as follows:
 - a) 'Of Exceptional Importance' - COSMIC TOP SECRET
 - b) 'Top Secret' - NATO SECRET
 - c) 'Secret' - NATO CONFIDENTIAL
 - d) 'For Limited Use - NATO RESTRICTED.
2. Only the appropriate officials of NATO member states or NATO civil and military structures may assign classification levels to NATO information.

Article 35 - Changing the classification level of NATO classified information

The classification level of NATO classified information may be changed only by the State or international organisation that has created or submitted this information to NATO.

Article 36 - Permit to work with NATO classified information

The Minister of Defence of Georgia issues permits to natural and legal persons to work with NATO classified information. The procedures and conditions for issuing a permit to work with NATO classified information shall be determined by an ordinance of the Government of Georgia.

Article 37 - A security background investigation of a person for granting access to NATO classified information

1. To grant access to NATO classified information, the Ministry of Defence of Georgia shall, within one month, conduct a security background investigation of the person as determined by this Law and other legal acts.
2. The Ministry of Defence of Georgia shall conduct a security background investigation of the person specified in paragraph 1 of this article based on the information requested about this person from intelligence and counter-intelligence agencies.
3. The period determined by paragraph 1 of this article may be extended with the consent of the superior official of the structural unit conducting the security background investigation.

Article 38 - Obligations of persons who have been granted access to NATO classified information

A person who has been granted access to NATO classified information shall:

- a) not disclose NATO classified information, which has been confided to him/her or of which he/she has become aware;
- b) comply with the requirements of special physical, information, and communication and information systems security procedures defined by an ordinance of the Government of Georgia;
- c) inform the authorised official of the circumstances preventing him/her from protecting NATO classified information.

Article 39 - Protecting NATO classified information

To protect NATO classified information, the Government of Georgia shall determine special physical, information, and communications and information systems security procedures, and procedures for issuing permits to natural and legal persons to work with the NATO classified information.



Article 40 - Cryptographic measures for protecting NATO classified information

1. The responsibility for efficient and rational selection and maintenance of a cryptographic system necessary to protect NATO classified information with cryptographic means shall rest with the Ministry of Defence of Georgia, which:
 - a) selects communication and information means for relevant state structures to protect NATO classified information; determines the expediency of using technical means and systems for the protection of this information gives appropriate recommendations to ensure the implementation of technical and organisational measures for protecting NATO classified information, and supervises their implementation;
 - b) ensures the proper recording, storage, safe use, transfer, and distribution of the cryptographic means used for protecting NATO cryptographic materials and information, and the implementation of the procedures required for their destruction;
 - c) carries out accreditation of systems used to protect NATO classified information, in particular, authorises and controls the communications and information systems that store, process and transmit NATO classified information.
2. All the bodies, organisations and institutions possessing or dealing with NATO classified information shall use the technical means selected, accredited and authorised by the Ministry of Defence of Georgia to protect such information.
3. The Government of Georgia shall determine the cryptographic measures for protecting NATO classified information.

Article 41 - Destruction of NATO classified information

1. NATO classified information, including an extra copy and/or a draft document that is no longer needed for official use, shall be destroyed in such a way that it cannot be identified or restored. The NATO classified information contained in the registries shall be periodically reviewed to identify the necessity for its destruction. To destroy a document containing information, the consent of the author of this information need not be obtained.
2. To destroy NATO classified information of a CONFIDENTIAL level or of a higher classification level, it shall be returned to the respective registry. The NATO classified information intended for destruction shall be indicated in the destruction report. The report shall be signed by the person responsible for the registry and an impartial official authorised to access the NATO classified information of the respective classification level, who has a written permission to be present during the destruction of this information.
3. A copy or excerpt of a document containing NATO classified information of a RESTRICTED level may be destroyed by the recipient of this document, provided it is not the original and its copy is stored in the respective registry.

Chapter IX -

Liability for the Violation of the Legislation on State Secrets

Article 42 - Liability for the violation of this Law

1. A person who breaches the obligation to protect state secrets as defined by Article 24 of this Law or who fails to observe restrictions on transferring state secrets to other states or international organisations shall be subject to the liability provided for by law.
2. The liability provided for by the legislation of Georgia shall be imposed on a person who:
 - a) classifies information provided for by Article 7 of this Law;
 - b) classifies information without justification;
 - c) assigns a security classification marking to the information medium that is not or is no longer a state secret;
 - d) breaches the requirements under Articles 19 and 20 of this Law for granting access to state secrets;
 - e) does not monitor the protection of state secrets.
3. If a person discloses information deemed to be a state secret that, under this Law, should not have been deemed as such, the issue of his/her liability may only be considered after the lawfulness of classification of such information is established. If the classification of the information is found to be unlawful, the person shall not be held liable.
4. The disclosure of a state secret by a person who was unaware or should not have been aware that the information was a state secret shall not be considered as a crime.
5. Publication of information containing a state secret in the press and other mass media, or in the Internet, the disclosure of which is important to protect public safety or which has already been published shall not be considered as a crime.
6. For disclosing NATO classified information the person shall be held liable according to the legislation of Georgia.



Transitional and Final Provisions

Article 43 - Transitional provisions

The Government of Georgia shall, within six months after the entry into force of this Law, ensure the adoption of the following normative acts:

- a) the Procedure for Deeming Certain Information to be a State Secret and for Protecting such Information
- b) the List of Information Deemed to be a State Secret
- c) the List of Officials Authorised to Deem Specific Information to be a State Secret
- d) the List of Officials Authorised to Grant Natural Persons Access to State Secrets.

Article 44 - Repealed normative acts

1. The Law of Georgia on State Secrets of 29 October 1996 (Parliamentary Gazette, No 27-28/4, 21.11.1996, p.53) shall be repealed upon entry into force of this Law.
2. The following shall be repealed upon entry into force of the normative acts provided for by Article 43 of this Law:
 - a) Edict No 42 of the President of Georgia of 21 January 1997 on the Approval of Normative Acts related to the Entry into Force of the Law of Georgia on State Secrets;
 - b) Ordinance No 305 of the Government of Georgia of 22 April 2014 on the Approval of Certain Normative Acts Defined by Article 4(2) of the Law of Georgia on State Secrets.

Article 45 - Entry into force of the Law

This Law shall enter into force upon its promulgation.

President of Georgia

Giorgi Margvelashvili

Kutaisi

19 February 2015

No 3099-IIS

