

THE PARLIAMENT OF ROMANIA

CHAMBER OF DEPUTIES

SENATE

LAW ON PROTECTION OF CLASSIFIED INFORMATION

CHAPTER I

GENERAL PROVISIONS SECTION ONE - PRINCIPLES

ART.1. The purpose of this Law is the protection of classified information and its confidential sources. The protection of such information is ensured by establishing the national system for information protection.

ART.2. (1) Law guarantees access to information of public interest.

(2) Access to classified information is granted only under the circumstances, terms and with observance of the procedures provided by law.

ART.3. No provision of this Law shall be deemed as limiting access to public information or eluding the provisions of the Constitution or of the Universal Declaration on Human Rights, pacts or other treaties related to the public right to receive and disseminate information, to which Romania is party.

ART.4. The main objectives of classified information protection are to:

a) protect classified information against espionage activities, compromise or unauthorized access, distortion or alteration of its content, as well as against sabotage and unauthorized damage;

b) ensure the security of the classified information transmission systems.

ART.5. Measures deriving from the implementation of this Law are meant to:

a) prevent unauthorized access to classified information;

b) identify circumstances and individuals who, by their actions, could endanger the security of classified information;

c) ensure that classified information is disseminated exclusively to those entitled to get knowledge of it;

d) ensure physical protection of information, as well as of personnel required to protect classified information.

ART.6. (1) National standards for classified information protection are mandatory and will be established by the Romanian Intelligence Service, only with the agreement of the National Security Authority.

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

(3) In case of conflict between the domestic norms on classified information protection and NATO norms, NATO norms shall prevail.

ART.7. (1) The individuals who will have access to classified information shall be subject to prior clearance upon their loyalty and professionalism, in handling such information.

(2) For candidates to public positions involving working with such information, and competence to grant access to this information, the clearance shall be conducted prior to their appointment, at the request of the investing authority.

(3) The clearance procedures are those mandatory for employees of the National Security Authority handling NATO classified information, according to the equivalence between classification levels provided by this Law.

ART.8. The personnel specially designated to ensure the protection of classified information shall be included in a permanent training and improvement system, regularly, according to the national protection standards.

ART.9. The protection of the classified information will encompass:

- 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 sources.

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

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

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

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

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

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

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

SECTION 2

DEFINITIONS

ART.15. In the sense of this Law, the terms below are defined as follows:

a) "information" - means any documents, data, objects and activities, regardless their support, form, means of expression and circulation;

b) "classified information" - means any information, data, documents of interest to national security, which, due to its importance and consequences resulting from unauthorized disclosure or dissemination, requires protection;

c) "secrecy classes" are: are state secret and restricted;

d) "state secret information" - means any information related to national security whose disclosure could be detrimental to national security and national defense;

e) "restricted information" - means 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, as follows:

- "top secret" - any information whose unauthorized disclosure can cause extremely serious damage to national security;

- "secret" - any information whose unauthorized disclosure can cause serious damage to national security;

- "confidential" - any information whose disclosure can cause damage to national security;

g) "legal protection" - all constitutional norms and other legal provisions regulating the protection of classified information;

h) "protection by procedural measures" - all regulations based on which the originators and holders of classified information establish internal working measures meant to ensure protection of information;

i) "physical protection" - all activities of guard, security and protection of classified information, by physical check means and technical devices;

j) "personnel protection" - all vetting procedures and measures applied to individuals fulfilling tasks related to classified information to prevent and deter security risks for classified information protection;

k) "security clearance" - documents certifying vetting and authorization of the person to hold, have access to or work with classified information.

CHAPTER II

STATE SECRET INFORMATION

ART.16. Protection of state secret information is an obligation of authorized persons who draw up, manage or handle 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, the technical specifications of arms and military equipment used exclusively within the national defence system;

b) military plans and deployment, 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 organisation of the protection and defence systems of the special and military targets, sectors and computer networks, their security mechanisms included;

e) the data, schemes and programmes 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 defence and security;

g) means, methods, know-how and equipment, as well as specific sources of information, used by the public authorities conducting intelligence activities;

h) maps, topographic plans and air recordings reproducing elements or objectives classified state secret;

i) studies, geological and gravimetrical prospects with a density higher than a dot/square kilometre, by means of which national reserves of rare, precious, disperse and radioactive metals

and ores, as well as data and information related to material reserves under the authority of State Reserves National Administration are assessed;

j) the systems and plans for electric power, heating and water supplies and other economic operators needed for the proper functioning of objective classified state secret;

k) scientific, technologic and economic activities and investments related to national security or defense, or of special importance for the economic and technical-scientific interests of Romania;

l) scientific research in the field of nuclear technologies, excepting fundamental research, as well as the programmes for the protection and security of nuclear materials and facilities;

m) the issuance and printing of banknote, 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 protections is binding upon the Romanian state under international treaties and agreements.

ART.18. (1) State secret information is classified on classification levels, depending on the importance of the protected values.

(2) The secrecy levels for the information belonging to state secret category are:

- Strictly secret of special importance;
- Strictly secret;
- Secret.

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

a) for "strictly secret of special importance"

1. the President of Romania;
2. the Presidents of Senate and Chamber of Deputies;
3. Supreme Council of National Defense members;
4. the Prime Minister;

5. Government members and the General Secretary of the Government;
6. the National Bank Governor;
7. the Directors of National Intelligence Services;
8. the Director of the Guard and Protection Service;
9. the Director of Special Telecommunications Service;
10. the Senate Secretary General and the Chamber of Deputies Secretary General;
11. the Director of the National Institute of Statistics;
12. the Director of the State Reserves National Administration;
13. other authorities invested by the President of Romania or Prime Minister.

b) for "strictly secret" – the persons under a) and state secretaries according to their area of competence;

c) for "confidential information" – the persons under a) and b) and state subsecretaries, general secretaries or general directors according to their area of competence.

ART. 20. Any Romanian natural or legal person may file a complaint to the authorities entitled to classify the information, against the assigned classification level, the classification period, and the way the classification level was assigned. The complaint shall be solved under the legal terms of administrative contentious.

Art. 21. (1) The National Registry Office for Classified Information shall be established under the Government.

(2) The National Registry Office for Classified Information will organize records of the classified lists and information and the classification maintaining terms, of the personnel cleared and authorized to work with state secret information and of clearance records under article 10.

ART. 22. (1) The public authorities shall draw up their own lists including the categories of state secret information related to their fields of activity.

(2) The lists containing state secret information on classification levels drafted or held by public authorities or institutions shall be approved and updated by Government Decision.

(3) The Government Decisions approving state secret information lists shall be communicated to the Romanian

Intelligence Service, the Foreign Intelligence Service and, as appropriate, to other intelligence structures responsible, according to law, for organizing the special protection measures.

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

(2) The measures under (1) shall be consistent with the national standards of classified information protection.

ART. 24. (1) Documents containing state secret information shall have their classification level applied on each page as well as the specification "Personal", when they are particularly directed to certain persons.

(2) Identification and marking rules, mandatory inscriptions and specifications on state secret documents, depending on their classification level, recording requirements of number of copies and addressees, time limit and conditions of storage, reproduction and circulation interdictions shall be established by Government Decision.

(3) Assignment of a classification level under 15 (f) to state secret information, as well as the norms related to the minimum protection measures within each level shall be established by Government Decision.

(4) Information classified under 15 (f) may be declassified by Government Decisions, at the justified request of the originator.

(5) Classification as state secret of information, data or documents with the purpose to conceal law violations, administrative errors, to limit access to public interest information, to illegally restrict any person's rights or cause damage to other legitimate interests is forbidden.

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

(7) Public authorities that are originators of or work with secret information shall develop a guide for the correct and unitary classification of state secret, in strict accordance 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 persons authorized to copy, make excerpts or summarize the contents of classified documents shall apply on the

derived documents the specifications of the original document.

(10) The persons or public authorities entitled to approve the class and classification level of information shall also approve make declassification or downgrading of information.

ART. 25. (1) The specialized unit of the Romanian Intelligence Service generally shall coordinate the activities and control of measures for the protection of state secret information.

(2) The Ministry of National Defence, the Ministry of Internal Affairs, the Ministry of Justice, the Romanian Intelligence Service, the External Intelligence Service, the Guard and Protection Service and the Special Telecommunication Service shall establish their own structures and measures to ensure state secret information protection, in their area of activity or responsibility, according to the law.

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

(4) The Parliament, the Presidential Administration, the Government and the Supreme Council of National Defence shall establish their own measures for the protection of state secret information, according to 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 access to their information shall be carried out under the terms of the international treaties or agreements to which Romania is party.

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, according to the law.

(2) The specialized structure of the Ministry of National Defense shall coordinate and control the measures related to the protection of state secret information, in what concerns the activity of military attaches at the Romanian diplomatic missions and the military representatives to international bodies.

ART. 27. The National Security Authority has regulation, authorization and control powers concerning the protection of

NATO classified information, under the conditions provided by law.

ART.28. (1) Access to state secret information is granted on the basis of a security clearance, issued by the manager of legal person holding such information, after the preliminary notification to the National Registry Office for Classified Information.

(2) Authorization is granted at the classification levels under 15 (f), following the vetting conducted on the person, with his/her written consent. Legal persons, except for those under 25 (2) and (3) shall notify to the National Registry Office for Classified Information the issuing of the access authorization.

(3) Access to NATO classified information shall be granted based on a security clearance issued by the National Security Authority, after the vetting has been conducted by the authorized institutions.

(4) The authorization shall be valid up to 4 years; during this period, the vetting may be repeated whenever necessary.

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

ART. 29. Managers of economic agents or of other private legal person, as well as all natural persons who were granted access to state secret information shall observe the legal provisions regarding the protection of such information within cooperation relationships.

ART. 30. Foreign citizens, Romanian citizens who also have the citizenship of another state, as well as stateless persons may be granted access to state secret information and places where state secret activities are carried out and objects or works from this category are exhibited only under circumstances provided by Government Decision or international treaties and agreements signed by Romania.

CHAPTER III

RESTRICTED INFORMATION

ART. 31. (1) Restricted information shall be established by the manager of the legal person on the basis of the norms provided by Government Decision.

(2) The information under (1) shall bear the marking "Personal" on each page, when they are particularly directed to certain persons;

(3) The provisions under article 28 are appropriately applied to restricted information.

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

ART. 32. The managers of public authorities and institutions, of economic agents with full or partial state capital or of other private or public legal persons shall designate which are the restricted information and the rules to protect it, coordinate the activity and supervise the measures related to the protection of restricted information, according to their competencies, in

accordance with the norms established by Government Decision.

ART. 33. Classification as restricted of the information which, by its nature or content, is intended to ensure public awareness on certain issues of public or personal interest, in order to facilitate or cover law evasion, or obstruct the justice is forbidden.

CHAPTER IV

TASKS OF THE ROMANIAN INTELLIGENCE SERVICE

ART. 34. In order to coordinate the activity and control the measures related to the protection of the classified information within its area of competence, the Romanian Intelligence Service shall fulfill the following main tasks:

a) establish the national standards for classified information and the their implementation objectives, in cooperation with the public authorities;

b) supervise the activities carried out by public authorities in order to implement the provisions of this law;

c) issue specialized assistance for the programs of preventing the leakage of classified information, drafted by public authorities and institutions, state companies and other commercial companies handling such information;

d) supervise the way the legal norms related to the protection of classified information are observed and implemented by public authorities and institutions;

e) perform checks and reviews of the programmes related to the protection of classified information, on the spot;

f) cooperate with the National Registry Office for Classified Information and the National Security Authority on all issues regarding the implementation of this law;

g) provide support in establishing the objectives and the places of special importance to the protection of classified information, at the request of managers of public authorities and institutions, economic agents and private legal persons and submit the centralized records to the Government for approval;

h) organize and collect, transport and disseminate across the country the state secret mail and restricted official mail, according to the legal provisions;

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

j) identify any breach of the norms related to the protection of classified information and apply contravention sanctions provided by law, and notify the criminal investigation

bodies in case of criminal offences.

ART. 35. The Romanian Intelligence Service shall inform the Parliament and the Supreme Council of National Defense on the results and conclusions drawn from the activities related to the protection of classified information within its area of competence, on annual basis and whenever appropriate, or at request.

CHAPTER V

DUTIES, LIABILITIES AND SANCTIONS

ART. 36. (1) The natural persons entrusted with classified information shall ensure its protection, according to the law, and observe the provisions of the programs for preventing leakage of classified information.

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

(3) The person who is to work or to be appointed to a position involving access to classified information shall submit to the manager a written agreement of confidentiality.

ART. 37. (1) Public authorities, as well as other legal persons holding or entrusted with state secret information or with restricted information shall provide the funds necessary to fulfill their obligations, and establish the measures required by the protection of such information.

(2) The responsibility for protecting the classified information rests with the managers of the public authorities or institutions, or with any other legal person handling such information, as the case may be.

ART. 38. (1) The state secret information shall be disseminated, transported and stored according to the legal provisions.

(2) Dissemination of state secret information by wire or air, without using means specific to the national cipher code system or any other encrypting elements established by the relevant public authorities is forbidden.

ART. 39. (1) Any violation of the norms related to the protection of classified information entails disciplinary, contraventional, civil or criminal liability, as the case may be.

(2) Any person employed by the intelligence and security services, by the army or by the foreign affairs department, as well as any person specially designated to ensure protection of state secret information, guilty of voluntarily disclosure or acts of negligence favoring disclosure or leakage of secret information

shall irrevocably lose his/her official capacity.

Art. 40. (1) Any violation of the norms related to the protection of classified information is established by Government Decision.

(2) The contraventional sanctions for violating the norms may be applied to legal persons as well.

CHAPTER VI

FINAL PROVISIONS

ART. 41. (1) Within the public authorities and institutions, as well as the economic agents storing classified information, there shall be established special departments for its recording, processing, analyzing, storing, handling and multiplication in safe conditions.

(2) The special departments mentioned above under (1) shall report to the manager of the public authority or institution, or to the economic agent.

ART. 42. (1) Within 60 days from the publishing of this Law in the Official Gazette of Romania, Part I, the Government shall establish by Government Decision:

- a) classification of the state secret information and the norms related to the minimum security measures within each class;
- b) general regulations on elaboration, storing, processing, multiplication, handling, transportation, dissemination and destruction of the state secret information;
- c) objectives, sectors and places of special importance for the protection of state secret information;
- d) obligations and liabilities of the public authorities and institutions, as well as of the economic agents or any other legal person related to the protection of classified information;
- e) norms related to access to classified information, as well as the vetting procedures;
- f) conditions for photographing, filming, cartographing and creation of any works of art in objectives or places of special importance for the protection of state secret information;
- g) any provisions related to the access of foreign citizens to state secret information;
- h) other norms necessary to implement this law.

ART. 43. This Law shall come into force after 60 days from its publishing in the Official Gazette of Romania, Part 1.

Art. 44. (1) Upon the coming into force of this Law, Law no. 23/1971 on the state secret protection, published in the Official Bulletin no. 157/ 17 December 1971, the CMD no. 19/ 1972 regarding some measures on state secret protection, published in the Official Bulletin no. 5/ 14 January 1972, as well as any other contrary provisions, shall be revoked.

(2) On the same date, the phrase "state secrets" from the contents of the normative acts currently in force shall be replaced by "state secret information".