

**LAW ON STATE PROTECTION OF THE VICTIM, OF WITNESSES AND OTHER PERSONS WHO PROVIDE  
ASSISTANCE IN THE CRIMINAL PROCEEDINGS**

No. 1458-XIII from 28.01.98

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The Parliament adopts this law.

**Chapter I**

**General provisions**

**Article 1. Granting of state protection**

(1) State protection of persons who took part in the discovery, prevention, combating, investigation and solving of crimes, as well as of prosecution in court of criminal cases, is granted through legal, organizational, technical and other measures, taken by the competent state authorities, meant to protect the life, health, property, as well as other legal rights and interests of the above-mentioned persons and members of their families or close relatives, against illegal actions and infringements.

(2) Application of the procedure of state protection shall be considered adequate in cases when the person, to whom state protection will be granted, is found to be in a position of direct dependency on the prospect of discovery, prevention, combating, investigation and solving of crimes, as well as of prosecution in court of criminal cases involving organized crime.

[Paragraph 2 of article 1 was introduced by Law no. 126-XV from 03.05.2001]

**Article 2. Persons eligible for state protection**

(1) The following persons shall be granted state protection, in accordance with this law:

- a) persons who have informed the law enforcement agency about crimes that have been committed, took part in their discovery, prevention, combating, investigation and solving.;
- b) witnesses;
- c) victims and their legal representatives in criminal proceedings;
- d) suspects, accused, defendants and their legal representatives in the criminal proceedings, convicted persons;
- e) close relatives of persons enumerated in letter a), b), c) and d) (spouse, parents and children, adopters and adoptees, siblings, grandparents and grandchildren), and in exceptional cases, other persons, which are used to exercise pressure on the above-mentioned persons.

(2) Persons enumerated in paragraph (1) shall further be referred to as protected persons.

**Article 3. Bodies ensuring state protection**

(1) The state protection of protected persons is ensured by bodies:

- a) which take the decision on the application of state protection;

b) which conduct measures of state protection.

(2) The decision regarding application of protection measures, falling under the category of ordinary measures, to protected persons shall be taken by the chief of the body, which is competent to deal with the declaration (information) about the crime and the criminal case.

[Paragraph 2 of article 3 was introduced by Law no. 126-XV from 03.05.2001]

(3) The decision regarding application of protection measures, falling under the category of extraordinary measures, shall be taken by the chief of the body which has special subdivisions that provide state protection to protected persons based on a justified order (determination), issued by the judge, the prosecutor, the criminal investigation officer, which is competent to deal with the declaration (information) about the crime or the criminal file, while after the sentence becomes final – also by the body where the protected person is serving his/her sentence. The order (determination) shall contain data about the prospect of discovery, prevention, combating, investigation and solving of crimes, as well as of prosecution in court of criminal cases from the point of view of the protected person.

[Paragraph (3) amended by Law no. 206-XV from 29.05.2003]

[Paragraph 3 of article 3 was introduced by Law no. 126-XV from 03.05.2001]

(4) Measures of state protection of protected persons shall be conducted by the internal affairs bodies, Service of Information and Security of the Republic of Moldova, Center for Combating Economic Crime and Corruption on files with which they are working or are competent to work, as well as other bodies which may, in accordance with the law in effect, conduct such measures. Special subdivisions shall be created within the above-mentioned bodies, pursuant to a Government decision.

[Paragraph (4) completed by Law no. 1146-XV from 20.06.2002]

[Paragraph (4) amended by Law no. 543-XV from 12.10.2001]

(5) Measures of state protection of persons protected under files dealt with by courts or the prosecutor's office, shall be conducted pursuant to a decision of the judge or prosecutor, by the internal affairs bodies, the territorial bodies of the Service of Information and Security of the Republic of Moldova or of the Center for Combating Economic Crime and Corruption from the place of location of the protected person.

[Paragraph (5) amended by Law no. 1146-XV from 20.06.2002]

[Paragraph (5) amended by Law no. 543-XV from 12.10.2001]

(6) Measures of state protection of military officers and their close relatives are also conducted by the commander of the respective military unit, while protection of persons under arrest or in detention is also provided by bodies from the respective institutions.

#### **Article 4. Prosecutor supervision of the legality of execution of state protection measures**

Supervision of the legality of execution of state protection measures is exercised by the Prosecutor General and subordinate prosecutors.

## **Chapter II**

### **The Reasons, grounds and procedure of application of measures of state protection**

#### **Article 5. The reasons and grounds of application of measures of state protection**

(1) The reason for application of measures of state protection to the protected person is the declaration of this person and the operational information or other data received by the body ensuring state protection about threats to the safety of the respective person.

(2) Grounds for application of measures of state protection to the protected person is collection of data about the existence of a real threat of death, violence, destruction or of property damaging or other illegal actions linked to the fact that the respective person has provided assistance in the criminal proceedings.

#### **Article 6. Procedure of application of measures of state protection**

(1) The criminal investigation officer, the prosecutor or the judge, upon receiving a declaration (information) about threats to the safety of the protected person, is obliged to verify this declaration (information) and, within 3 days, or immediately, in cases of emergency, take a decision regarding application or rejection of the request to apply measures of state protection to the protected person. The decision is taken in the form of a justified order (determination), which is to be executed by the bodies conducting measures of state protection. The respective order (determination) may be appealed before the superior authority, the prosecutor or in court.

[Paragraph (1) amended by Law no. 206-XV from 29.05.2003]

(2) The body assigned to conduct measures of state protection establishes the necessary measures and the procedure of their realization, depending on the specific circumstances.

(3) When the declaration (information) contains data about the commission of the crime, the criminal investigation officer or the prosecutor shall take the decision about filing or refusing to file a criminal case or about forwarding the declaration (information) to the competent legal authority, and inform the complainant.

[Paragraph (3) amended by Law no. 206-XV from 29.05.2003]

#### **Article 7. Cancellation of measures of state protection**

Measures of state protection are cancelled through the order of the body which provides state protection, in cases when the grounds for such protection no longer exist or when the protected person has violated the conditions of provision of such measures.

[Article 7 as edited by Law no. 126-XV from 03.05.2001]

#### **Article 8. Measures of state protection**

(1) Depending on the specific circumstances, the following measures of state protection may be applied in order to insure the safety of the protected person:

- a) ordinary
- b) personal protection, protection of the residence and personal property;
- c) issuance of special means of individual protection, which insure the possibility to be connected and inform about the threat;
- d) temporary placement in safe locations;
- e) non-disclosure of information regarding the protected person;
- f) extraordinary change of place of work or studies;
- g) change of place of residence, with mandatory granting of a new place of residence (house, apartment);

h) change of identity documents by means of changing the first and the last name, the father's name, the exterior aspect;

i) prosecution of the offense in a closed court session.

[Paragraph 1 of article 8 as edited by Law no. 126-XV from 03.05.2001]

(2) Operational investigation measures may be taken, in accordance with the Law on the operational investigative activity.

(3) Measures stipulated in paragraph (1) may be applied only with the consent of the protected person and without prejudice to her/his rights, freedoms and personal dignity.

#### **Article 9. Personal protection, protection of the residence and property**

(1) When necessary, the competent bodies shall ensure the personal protection and the protection of the residence and property of the protected person.

(2) With the consent of the protected person, her/his residence and property may be equipped with alarm system. her/his phone number, as well the registration number of the means of transportation she/he is using, can be changed.

#### **Article 10. Issuance of special means of individual protection, connection and information in case of a threat**

(1) In cases when there is a real threat to the life and health of the protected person, the body conducting safety measures may issue the respective person special means of individual protection, connection or information in case of a threat.

(2) The procedure of issuance of special means of individual protection, connection or information in case of a threat is established by the body conducting safety measures.

#### **Article 11. Temporary placement in safe locations**

When necessary, upon the request or with the consent of the protected person who has reached the age of 18, or with the consent of the parents or legal representatives of minors, she/he can be temporarily placed in safe locations, transferred temporarily or permanently to another place of work or studies, temporarily or permanently moved to another place of residence.

#### **Article 12. Nondisclosure of data about the protected person**

Nondisclosure of data about the protected person is ensured through:

a) change of these data in the declaration (information) about the crime, in the materials of the criminal file. The data about the protected person are kept separately, in accordance with requirements of the law in effect;

b) presentation for identification of the person which has to be recognized without the possibility of visual observation of the person who is identifying, holding the confrontation in the same manner;

c) interrogation of the victim and the witness in conditions which ensure their safety and anonymity;

d) exempting the protected person from the obligation to be present at the court session if her/his safety cannot be ensured through other means, and if her/his absence will not affect the investigation, under all aspects, complete and objective, of the circumstances of the case. In this case, the judge

shall read out loud the depositions given by the protected person in the process of criminal investigation and/or reproduces the audio or video tape annexed to the file.

[Paragraph (d) amended by Law no. 206-XV from 29.05.2003]

#### **Article 13. Change of identification documents. Change of the exterior aspect**

(1) In exceptional cases, identification documents can be changed, through changing the last name, the first name, the father's name and other data about the protected person, as well as the protected person's exterior aspect.

[Paragraph 1 of article 13 as amended by Law no. 126-XV from 03.05.2001]

(2) Registration of measures stipulated in paragraph (1) is done separately by the special subdivision of Ministry of Internal Affairs, in accordance with the law in effect.

#### **Article 14. Examination of the case in a closed court session**

Examination of the case in a closed court session is allowed, in accordance with the law in effect, based on a justified determination of the judge, when this is dictated by the interest of the protected person.

#### **Article 15. Granting of state protection to the person under arrest or in detention**

State protection of the person under arrest or in detention is ensured through measures stipulated in article 8 paragraph (1) point 1) letter a), b) and d), and point 2) letter c). In addition, the following measures may be applied:

- a) transfer from one place of arrest or detention to another;
- b) change of the preventive measure, in accordance with the law in effect.

[Article 15 as amended by Law no. 126-XV from 03.05.2001]

#### **Article 16. Social protection of protected persons**

(1) The life, health and personal property of the protected person shall be subject to state insurance, paid for from the state budget.

(2) In case of death of the protected person linked to her/him providing assistance in the criminal proceedings, her/his family and dependents shall be given a one time compensation in the amount of 6 average monthly salaries, calculated for the entire country for the month preceding the time death, and in cases of loss of the provider, a pension for loss of provider shall be established, in accordance with the law in effect.

(3) In case of mutilation linked to the assistance provided in the criminal proceedings, the protected person shall be paid a one time compensation in the amount of 3 average monthly salaries, calculated for the entire country for the month preceding the time of injury, and in case of loss of working capacity, the respective person shall also be established a pension for cases of disability, in accordance with the law in effect.

(4) The material damage caused to the protected person in relation to the assistance provided by her/him in the criminal proceedings shall be compensated in accordance with the provisions of the law in effect.

(5) Upon the identification of the persons guilty for the death, mutilation, causing of bodily harm or material damage to the protected person, as a result of which the respective person or her/his successors have been paid the amount of insurance, the legal bodies shall withhold, through a court procedure, the amount of insurance from the persons found guilty.

## **Chapter IV**

### **Rights, Obligations and responsibility of protected persons and of bodies which ensure measures of state protection**

[wording of Chapter IV introduced according to Law no. 126-XV from 03.05.2001]

#### **Article 17. Regulation of relations between parties**

In cases when the decision has been taken to apply measures of state protection, the protected person shall conclude an agreement with the body granting state protection. The agreement shall include the conditions, on which protection will be granted and the rights and obligations of parties.

#### **Article 18. Rights, obligations and responsibility of parties**

(1) The protected person has the right:

- a) to file a declaration concerning the application of measures of state protection or their annulment;
- b) to be informed about the measures of protection to which she/he is subjected;
- c) to request the body which conducts measures of state protection to apply additional measures of protection or to annul them;
- d) to appeal de illegal decisions and actions of the body conducting measures of state protection before a higher body or in court.

(2) The protected person has the obligation:

- a) to cooperate with the law enforcement agencies in the discovery, prevention, combating, investigation and solving of crimes, as well as of examination in court of criminal files;
- b) to observe the conditions of application of measures of state protection and the legal requirements set by the body conducting measures of state protection;
- c) to take care of the goods and documents issued temporarily in accordance with the law;
- d) to inform immediately the respective bodies about every case of threat to personal safety; not to disclose data regarding the measures of state protection applied to her/him.

(3) The rights and obligations of the protected persons are communicated to her/him at the moment the declaration regarding the existence of a real threat to her/his safety is filed or from the moment measures of state protection are applied at the initiative of the respective bodies.

(4) The body which takes the decision to apply measures of state protection has the right:

- a) to request from respective individuals and bodies the necessary materials and explanations regarding the declaration on application of measures of state protection, without undertaking measures of criminal investigation;

[Paragraph (4) a) as amended by Law no. 206-XV from 29.05.2003]

- b) to request the body which conducts measures of state protection to apply additional measures of protection;

c) to annul, entirely or in part, the application of measures of state protection in connection with a breach of the provisions of the agreement on protection by the protected person;

d) to establish measures of state protection, the means and methods of their application and, where appropriate, to change or to supplement them.

(5) The body which takes the decision to apply measures of state protection has the obligation:

a) to react immediately to any case of threat to the safety of the protected person;

b) to ensure the personal protection and the protection of the residence and personal property of the protected person, depending on the nature of the threat.

(6) The chiefs and officers of all subdivisions of the bodies which conduct measures of state protection are obliged to execute the orders of body which takes the decision on the application of measures of state protection, with regard to their realization and the confidentiality of information received.

(7) The responsible officers from the body conducting measures of state protection of the protected person, as well as the protected person, which failed to conduct or execute adequately the measures of protection, to keep the information about measures of state protection confidential and to observe other requirements established by this law, will be held responsible according to the law.

[Chapter IV as amended by Law no. 126-XV from 03.05.2001]

## **Chapter V**

### **Final provisions**

#### **Article 19. Coverage of expenditures linked to the conduction of measures of state protection to protected persons**

(1) Financing and the technical-material coverage of the measures of state protection of protected persons is done from the state budget, in accordance with the law in effect.

(2) The protected person may not be asked to cover the expenditures linked to the application of measures of state protection.

(3) The protected person, upon her/his request, can ask to cover entirely or partially the expenditures linked to the conduction of measures of state protection by signing a contract with the bodies conducting such measures of protection.

#### **Article 20**

This law shall enter into force on the date of its publication.

#### **Article 21**

The Government, within 3 months from entry into force of this law shall:

a) present to the Parliament proposals on bringing the legislation in effect in conformity with this law;

b) bring its normative acts in conformity with this law;

c) ensure the revision and abrogation by ministries and departments of their normative acts which contradict this law.

[Chapter V as amended by Law no. 126-XV from 03.05.2001]

Chisinau, 28 January, 1998.

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