

PARLIAMENT OF THE REPUBLIC OF MOLDOVA

LAW on State Secret

The Parliament adopts the present organic law.

Chapter I General Provisions

Article 1. Terms

Security certificate – a document that certifies the legal entities' rights, except that of the public authorities, to carry out activities related to using information defined as state secrets, to set means of information protection, to undertake measures and/or provide services for the state secrets protection;

Right of access to a state secret – an individual's right of access to state secrets, and the legal entity's right to carry out activities by using information defined as state secret, granted according to the established procedure;

Secrecy level – the category that characterises the importance of the information defined as state secrets, the level of limiting the access to it and the level of its state protection;

Means of information protection – technical, cryptographic, software and other means intended to protect the information defined as state secret, the means of their implementation, as well as the means to verify the efficiency of information protection;

Secrecy label – an imprint applied to physical medium of the information defined as state secrets and/or applied on its accompanying documents, that certify the secrecy level of the information contained by the medium;

Loss of information defined as state secret – deprivation, including temporary one, or wide usage of the information defined as state secrets, as a result of their unauthorised loss, defalcation or disposal;

State secret protection – the complex of administrative, legal, technical, engineering, cryptographic, operative investigation and other measures designed to prevent the disclosure and loss of information defined as state secrets;

Physical medium of information defined as state secret – material objects, including physical fields, where information defined as state secrets is exposed as texts, signs, symbols, images, signals, technical solutions, processes etc.;

State secret – information protected by the state in the areas of its national defence, economy, science and technology, external relations, state security, legal order insurance and activities of public authorities whose unauthorized disclosure or loss can harm the interests and/or the security of the Republic of Moldova.

Article 2. Scope and Sphere of Application of the Law

(1) The present Law sets the legal framework for state secret protection in order to ensure the interests and/or security of the Republic of Moldova. The state secret protection is carried out by organizing the national system of state secret protection.

(2) The provisions of the present Law are executory both for the foreign citizens and stateless persons who assumed the obligation or are bound, according to their status, to execute the requirements of the legislation on state secrets of the Republic of Moldova.

(3) Information handed over to the Republic of Moldova, that represent a secret of a foreign state or of an international organization, is protected according to the procedure established by the present Law. In case the international treaty, the Republic of Moldova is a party to, contains other provisions on protection of a foreign state's secret or that of an international organization, the provisions of the international treaty are applied.

Article 3. Legislation on State Secrets

Legislation on state secret is based on the Constitution of the Republic of Moldova, the present law and other by-laws that regulate state secrets protection, as well as international treaties the Republic of Moldova is a party to.

Article 4. National System of State Secret Protection

(1) National system of state secret protection comprises the totality of the bodies dealing with state secrets protection, methods and means used to protect information and physical medium of information defined as state secrets, as well as the measures undertaken in this field.

(2) National system of state secrets protection refers to:

- a) legal protection – the totality of provisions of legal and normative acts that regulate the state secret protection;
- b) protection through procedural measures – the totality of regulations through which the owners of information defined as state secrets set measures for internal activity and order aimed to protect the information;
- c) physical protection – the totality of safekeeping activities, ensuring the security and protection of information defined as state secret through physical control measures and means;
- d) protection of informational and telecommunication systems – the totality of the activities designed to ensure the security of the information defined as state secrets by applying cryptographic and technical methods and means of information protection, as well as organisational and technical procedures;
- e) personnel protection – the totality of controls and measures designed for the citizens who are granted the right of access to state secret or who have access to it, in order to prevent and eliminate risks related to state security and state secrets protection.

(3) National system for state secrets protection has the following duties:

- a) prevents the unauthorized access, disclosure and loss of state secrets;
- b) identifies the circumstances, as well as persons who, through their actions or inactions, may threaten the security of state secrets;
- c) guarantees that the information defined as state secrets is available exclusively to the persons authorized to know about it due to their official duties or on the basis of another legal ground;
- d) ensures the security of telecommunication systems, informational systems and networks for the transmission of state secret.

Article 5. Public authorities' duties in the field of state secret protection

(1) Parliament:

- a) regulates the legal basis of relations in the field of state secret;

b) sets the duties of the officials from the Parliament's Apparatus regarding the insurance of state secret protection within the Parliament;

c) performs parliamentary control over the implementation of legislation on state secrets.

(2) President of the Republic of Moldova:

a) concludes international treaties on the joint usage and protection of information defined as state secret;

b) sets the duties of the persons responsible for the insurance of state secret protection within the Apparatus of the President of the Republic of Moldova;

c) within the scope of his/her competences, exercise other duties related to settling problems appeared as a result of classifying, declassifying and protection of information.

(3) Government:

a) organizes the implementation of the present Law;

b) approves the structure, composition and regulation of inter-departmental Commission for State Secret Protection;

c) endorses the list of officials authorized to classify information as state secrets, as well as the list of the information defined as state secrets;

d) concludes inter-governmental agreements on mutual protection of information defined as state secrets;

e) approves the Regulation on insuring secret regime within the public authorities and other legal entities;

f) approves the Regulation on facilities under special regime, the list of facilities that are under special regime, the list of facilities that are temporary prohibited to be visited by foreign citizens;

g) sets the types of compensations, their size and the procedure of their granting to the citizens due to the carrying out of activities that imply the access to state secrets;

h) sets the procedure of determining the amount of the caused damage or the damage that can be caused to the interests and security of the Republic of Moldova or to the public authorities' interests as a result of disclosure or loss of information defined as state secrets, as well as the damage caused to the owner of information after its classification as secret;

i) passes decisions on transmission of information defined as state secrets to foreign states and international organizations;

j) can amend, through a decision, the procedure to access to state secret in conditions of declaring state of emergency, siege or war;

k) within the scope of its competence, fulfils other duties in the field of state secrets.

(4) Central and local public authorities, in collaboration with Information and Security Service:

a) ensure the protection of the information defined as state secrets developed by them, as well as the information defined as state secrets that is sent to them by other public authorities and legal entities;

b) ensure the protection of information defined as state secrets within their subordinated units, in compliance with the legal provisions;

c) endorse the detailed lists of information that is to be classified and the lists of officials who are to be granted the right of access to state secrets;

d) organize the functioning of interior subdivision for state secret protection;

e) ensure, within the scope of their competences, the undertaking of control measures regarding the citizens who need to be granted the right of access to state secrets and requests the Information and Security Service to undertake control measures that are within the scope of its competences;

f) submit to the competent bodies proposals on improving national system for state secret protection;

g) within the scope of their competences, fulfil other duties in the field of state secret.

(5) Information and Security Service:

a) jointly with the public administration authorities and interdepartmental Commission for State Secrets Protection develops drafts of normative acts on state secrets protection and submits them to the Government for approval;

b) provides specialized assistance to public authorities and other legal entities in carrying out state secrets protection;

c) participates in developing and implementing measures of state secret protection within the public authorities and legal entities;

d) carries out control over the insurance of state secret protection within the public authorities (inter-departmental control) and within other legal entities;

e) at the request of the heads of the public authorities and other legal entities, undertakes control measures regarding the citizens that need to be granted the right of access to state secret;

f) participate, according to the established procedure, in issuing security certificates to legal entities for performing activities that imply the usage of information defined as state secret and control over the holder of the security certificates' observance of the terms that served as a ground for granting these certificates;

g) carries out control and expertise of the facilities under special regime concerning the observance of the requirements in the field of state secrets protection;

h) organises and coordinates the certification and expertise of the means of cryptographic and technical protection of state secrets;

- i) creates governmental systems of telecommunications, ensures the functioning, security, maintenance, development and updating of these systems for the insurance of protected exchange of information defined as state secrets;
- j) collaborates with inter-departmental Commission for State Secrets Protection regarding matters related to the implementation of the present Law;
- k) identifies cases of violation of norms regarding state secrets protection;
- l) within the scope of its competences, fulfils other duties in the field of state secret;

Chapter II

Defining Information as State Secret

Article 6. Principles of defining information as state secret and classifying it as secret.

(1) Defining information as state secrets and its classification as secret is done in compliance with principles of legality, reasoning and suitability.

(2) The legality of defining information as state secret and its classification as secret consists in its compliance with the provisions of articles 7 and 8 of the present Law and the legislation on state secrets.

(3) Reasoning for defining information as state secret and classifying it as secret consists in establishing the rational character of classifying some concrete information as secret, of the eventual economic consequence as well as of other nature, on the basis of the interests of the state, society and person.

(4) Suitability of defining information as state secret and its classification as secret consists in setting restriction on access and dissemination of this information as from the moment of their elaboration (reception) or beforehand.

Article 7. Information Defined as State Secret

(1) Under the present Law, the information defined as state secret is:

1) In the sphere of national defence:

a) the content of the strategic and operative plans, the content of the documents related to battle command on preparation and holding operations, strategic, operative and mobilizing development of the troops, other important indicators that characterize the organization, effective force, dislocation, preparation for battle and mobilization, armament and technical and material supplies of the Armed Forces of the Republic of Moldova;

b) development directions of certain types of armament, military and special equipment, their quantity and technical and tactical characteristics,

organization and production technologies, scientific works, scientific research works and experimental works on construction in the field of creation of new models of armament, military and special equipment and their updating, other works planned or carried out for the interests of national defence;

c) forces and means of civil protection, capacity of the localities and other separate units designed for the protection, evacuation and dispersal of population, insuring vital activity of the population and the production activity for the legal entities during the state of war, siege or emergency, as well as in case of exceptional situations;

d) dislocation, destination, level of preparation and defence of the units of special regime, their design, building and exploitation, distribution of land, subsoil and water for such sites;

e) data and geodesic, gravimetric, cartographic and hydrometeorologic characteristics that are important for the national defence;

2) In the field of economy, science and technology:

a) plans and potential of mobilizing the national economy, reserve and volume of deliveries of raw materials and strategic materials, generalized data about the nomenclature and the levels of stocks, the volume of deliveries, allocation, depositing, refreshing, placing and the real volume of state material reserves;

b) the usage of transportation, communication, the potential of other branches and units of the national infrastructure in order to ensure the defence capacity and state security;

c) plans, content, volume, funding and realization of state orders to ensure the needs of state defence and security;

d) plans, volume and other important characteristics of extraction, production and selling of some strategic types of raw material and production;

e) operations related to producing monetary signs and state value titles, their keeping and protection against falsification, issuing, exchange and their withdrawal from the circuit, other special measures related to the state financial activity;

f) scientific works, scientific research works, experimental works on construction and design, that can serve as a basis for the creation of advanced technologies, new types of production, technological production and processes that are important for the national defence and economy or that have an essential influence on the external economic activity, state interests and/or security.

3) In the field of foreign relations:

a) foreign political activity, external economic relations of the Republic of Moldova, whose premature disclosure may harm the interests and/or security of the state;

b) military, technical - scientific and other type of cooperation of the Republic of Moldova with foreign states and international organizations, if the disclosure of this information will, doubtless, harm the state interests and/or security;

c) external financial, crediting and currency activity of the state, if the disclosure of this information will, doubtless, harm the state interests and/or security;

4) In the field of state security and legal order ensuring:

a) the effective force, content, plans, organization, funding and strategic supplies, forms, tactics, methods, means and the results of the intelligence, counter-intelligence, operative investigation operations;

b) persons who secretly collaborate or have previously collaborated with the bodies that carry out intelligence, counter-intelligence and operative investigation operations;

c) guard of the state border of the Republic of Moldova;

d) plans, organization, funding, effective force, means and methods of ensuring the security of the persons who enjoy the state protection, as well as the guarding of their work places and their houses.

e) systems of governmental telecommunication and other types of networks of electronic telecommunications intended for the needs of public authorities, national defence, state security and public order maintenance;

f) organization, content, status and plans for the development of cryptographic and technical protection of the state secrets, content and the results of scientific researches in the field of state secrets protection;

g) systems and means of cryptographic protection of state secrets, design, production, production technologies and their usage;

h) state ciphers, elaboration, creation, production technologies and their usage;

i) organization of a secret regime within the public authorities and other legal entities, plans and other measures in the field of state secrets protection;

j) other methods, forms and means of state secrets protection;

5) In the field of activity carried out by public authorities:

a) the content of the extracts, commentaries, projects, their parties, any other document of internal usage of the public authority, whose disclosure may lead to the disclosure of information defined as state secret;

b) the activity of elaboration, amendment, completion, finalization of the official acts, other procedures, activities carried out by the public authorities regarding the data collection and processing, that are to be defined as state secrets according to the legislation;

c) the activity of consultation within and between public authorities in the process of settling problems related to the fields where the information is defined

as state secrets.

(2) Justifying the need to define information as state secrets, in compliance with the principles of defining information as state secrets and classifying them as secrets, is the duty of the public authorities and other legal entities that developed/received such information.

Article 8. Information that is not defined as state secret

(1) The following data cannot be defined as state secrets and cannot be classified:

- a) violations of human and citizens rights and freedoms;
- b) environment conditions, quality of food products and appliances;
- c) Accidents, catastrophes, dangerous natural phenomena and other extraordinary events that threaten citizens' security;
- d) population's health status, level of living, including alimentation, clothing, housing, medical assistance and social insurance, socio-democratic indicators;
- e) health status of the persons who hold a public function;
- f) cases of law infringement committed by public authorities and high officials within these authorities;
- g) real situation in the field of education, culture, trade, agriculture, as well as the legal order;
- h) other data that cannot be classified, according to the legislation and treaties the Republic of Moldova is a party to.

(2) Classification of information as secret is prohibited in case it limits the access to information of public interest, it has a negative influence over the implementation of state programs and sartorial programs for the social-economic development or it restricts competition of economic agents.

Article 9. List of information defined as state secrets

(1) To promote a unique state policy in the field of defining information as state secret and its classification as secret, the Government approves the list of information defined as state secret, that also includes the public authorities empowered to hold these data.

(2) The list of information defined as state secrets is published in the Official Gazette of the Republic of Moldova and can be reviewed within the possibilities.

Article 10. Detailed lists of information that is to be classified

(1) On the basis and within the list of the information defined as state secrets, public authorities, mentioned in the classified list, in order to clarify and systematize the information in their field of activity, develops detailed

departmental lists of information that is to be classified. If the case may be, detailed inter-departmental lists of information that is to be classified can be developed.

(2) Legal entities that carry out activities by using information defined as state secrets, together with the beneficiary of these activities, develops, if applicable, separate detailed lists of information that is to be classified.

(3) Relevant public authorities are empowered to possess information included in the detailed list of information that is to be classified, setting the level and terms of its classification as secret, that shall correspond to the list of information defined as state secret.

(4) Detailed lists of information that is to be classified, their amendments and completions that are coordinated with the inter-departmental Commission for State Secrets Protection, are approved by the coordinators of public authorities vested with the authority to hold this information and are not made public. A copy of detailed lists of information that is to be defined as secret is sent for registration to the inter-departmental Commission for State Secrets Protection and to the Information and Security Service.

(5) The heads of public authorities authorized to hold information defined as state secrets are bound to review on a periodical basis, at least once in 5 years, the content of the detailed lists of information that is to be classified as state secrets with regard to the reason for classifying the information and their compliance to the secrecy levels set before.

(6) The heads of the public authorities authorized to hold information defined as state secret are subject to criminal, civil, administrative, disciplinary liability, in compliance with the legislation, for groundless classification of information as secrets, for deliberately not taking the decision on defining information as secret, whose disclosure may harm state's interests and security, as well as for taking a groundless decision on removal of the information defined as state secret from the list.

Chapter III

Classification and Declassification of Information as Secrets

Article 11. Secrecy levels of the information defined as state secrets and secrecy labels attached to the physical medium containing such information

(1) Secrecy level of information defined as state secrets shall correspond to the gravity of the damage caused to the interests and security of the Republic of Moldova in case of its disclosure or loss.

(2) Four secrecy levels of classifying the information defined as state secrets are established, as well as corresponding secrecy labels for the physical medium containing such information:

a) “top secret” – a secrecy level assigned to data whose unauthorized disclosure may produce exceptionally serious damage to the interests and security of the Republic of Moldova;

b) “secret” – a secrecy level assigned to data whose unauthorized disclosure may seriously harm the interests and the security of the Republic of Moldova;

c) “confidential” – a secrecy level assigned to data whose unauthorized disclosure may harm the interests and/or the security of the Republic of Moldova;

d) “restricted” – a secrecy level assigned to data whose unauthorized disclosure cannot be in favour of the interests and/or the security of the Republic of Moldova or may lead to the disclosure of information marked with the label “top secret”, “secret”, or “confidential”.

(3) Applying these secrecy labels in order to classify as secret the information that is not defined as state secret is prohibited.

(4) Pages, paragraphs, passages from a certain document or annexes to it may need the assigning of different levels of classification of information as secret and, in such a case, shall be marked correspondingly. The secrecy level assigned to the whole document corresponds to the part to which the highest secrecy level was assigned.

(5) Physical medium of the information assigned as state secrets intended for certain persons are additionally marked with the label “Personal”, and those that refer to mobilization are marked with letter “M”.

Article 12. Procedure for classifying information as secret

(1) As a ground for classifying the information, that was developed/received during the activities of administration, production, scientific etc. carried out by the public authorities and other legal entities, serves their compliance with article 7 and 8 of the present Law, the list of information defined as state secrets and the detailed lists of information that is to be classified. At the classification of these data as secret, the physical medium is marked with the respective secrecy label.

(2) In case the developed/received data cannot be identified through the data included in the respective list, officials within the public authorities and within other legal entities are bound to ensure the preliminary classification of the developed/received information as secret, according to the evaluated secrecy

level, and within a month to present to the official, who approved the mentioned list, proposals concerning its amendment and completion.

(3) The heads of public authorities and other legal entities, who approved the respective list, are bound, within 3 months, to organise experts evaluation of the received proposals and to take the decision on completion and amendment of the current list or to remove the secrecy label that was preliminary assigned to it. In case of necessity, according to the established procedure, reasoned proposals on amendment and completion of list of information defined as state secret are submitted.

(4) The lists of the employees who are to be granted the right of access to state secrets are coordinated with the Information and Security Service and are approved by the local public administration and other legal entities that develop/receive such information.

(5) Officials authorized to classify information as secret are liable for groundless classification of information as secrets, as well as for the deliberate elimination to classify information as secret, whose disclosure may harm the state interests and/or security.

Article 13. Terms for the Classification of Information as Secret

(1) The information with the secrecy level “Top secret”, is classified for a term of up to 25 years; the information with secrecy level “secret” – up to 15 years, the information with the secrecy level “confidential” – up to 10 years and the information with the secrecy level “restricted” – up to 5 years.

(2) Information about persons who secretly collaborate or have previously collaborated with the bodies who carry out intelligence, counter-intelligence and operative investigation operations, is classified for a term of up to 75 years, regardless of the secrecy level.

(3) In exceptional situations, for certain information defined as state secret, inter-departmental Commission for State Secret Protection can prolong the term of classifying the data as secret.

(4) Term of classifying the information as secret starts as from the day when the secrecy label is attached to the physical medium containing the information defined as state secret.

Article 14. Mentions attached to the physical medium containing information defined as state secret.

- (1) Physical medium of data defined as state secrets shall contain:
- a) secrecy label;
 - b) registration number;

- c) date and terms for classifying the information as secret;
- d) position, name, surname and signature of the official who classified the information as secret.

(2) The secrecy label shall be attached to top of each page, each page shall be numbered. If the document is to be disseminated in a series of copies, each copy will have a number printed on the first page, together with the total number of pages.

(3) In case the mentions cannot be attached directly on the physical medium containing information defined as state secrets, they are indicated in its accompanying documentation.

Article 15. Changing the secrecy label attached to the physical medium of information defined as state secret.

(1) Changing the secrecy level attached to the physical medium of information defined as state secret is done in cases when the secrecy level of the information contained in it is modified.

(2) Changing the secrecy label due to lowering the secrecy level for the categories of information, provided in the list of information defined as state secret and detailed list of information that is to be classified, is done within 6 months. In the rest of the cases, changing the secrecy label attached to the physical medium of information defined as state secret is done within 3 months after the secrecy level of the information contained by them was lowered.

(3) In case the secrecy level of the information is increased, the secrecy label is immediately changed.

(4) The decision on changing the secrecy level is adopted by the official who classified this information or his/her legal successor. Other public authorities or legal entities to which the document was sent are informed about the change of the secrecy label.

(5) If the document received from other public authority or legal entity is to be classified or the secrecy label was not assigned correctly to it, the receiver shall immediately, but not later than 3 days as for the date the document was registered, inform the sender about this fact, justifying the need to classify it or change the secrecy label. The receiver who submitted the proposal on classifying the information as secret or changing the secrecy label is informed about the decision passed by the sender.

(6) Changing the secrecy label attached to the documents selected for the state archives that contain data defined as state secret is done by the state archives, in collaboration with public authorities and legal entities, and if applicable, by their legal successor whose documents are kept in archives.

Article 16. Restricting the right to ownership of legal entities and citizens over the information due to its classification as secret

(1) The heads of public authorities authorized to hold information defined as state secret are entitled to take decisions on classification of information that is in the property of legal entities and citizens (hereinafter referred to as – the owner of information), if this information is defined as state secrets, according to the established procedure. These data are classified at the proposal of the owner of the information or at the initiative of the interested public authorities.

(2) Material damage caused to the owner of the information with respect to its classification is to be covered by the state to the extent established in the contract concluded between the owner and public authority, in whose possession the information was transferred. The contract also stipulates the owner of information's obligations not to disclose it, the procedure and conditions of state secret protection, the owner's consent for exercising the right to property with the restrictions provided by the law.

(3) If the owner of information refuses to conclude a contract or violates its provisions, on the basis of the final court decision, information defined as state secret and their physical medium are transferred to state property, providing the preliminary and complete payment of the information cost to the owner. The former owner is warned in written about the liability incurred for disclosure of state secret, provided in the effective legislation.

(4) The owner of information is entitled to appeal in court the actions of the official who, in his/her opinion, infringed his/her rights. If the law court finds that the officials' actions were illegal, the procedure of compensating the damage caused to the owner of information is established by the court's decision, according to the legislation.

Article 17. Appealing the Decision on Classification of Information as Secret

(1) Citizens and legal entities are entitled to address to officials who classified the information with a reasoned proposal to declassify this information. The abovementioned officials are bound, within a month, to provide a written answer to the citizen or the legal entity concerning this request.

(2) Officials who evade examining the requests are liable according to the legislation.

(3) Decision to classify the information as secret can be appealed in the

hierarchically higher institution or official, in the inter-departmental Commission for State Secret Protection or in the Administrative Contentious Court. In case of denial of the request submitted in the hierarchical order, the citizen or the legal entity is entitled to appeal the decision of the hierarchically higher institution or official in the Administrative Contentious Court. If one of these bodies finds the classification as groundless, this information is to be declassified according to the procedure set by the present law.

(4) The administrative contentious court examines the request according to the provisions of the Law on Administrative Contentious No. 793-XIV of 10 February 2000.

Article 18. Declassification of Information

(1) The following shall constitute the grounds for declassification of information as secret:

- a) expiration of term of classifying the information as secret;
- b) the change of the factual circumstances, as a result of which the further protection of the information defined as state secret is unreasonable;
- c) amendment of articles 7 and 8 of the present law, of the list of information defined as state secret or the detailed lists of information that is to be classified;
- d) the existence of a decision on finding the classification of information as groundless.

(2) Declassification of information is performed by officials authorized to classify the respective information as secret.

(3) Interdepartmental Commission for State Secret Protection, as well as the heads of public authorities and other legal entities are authorized to declassify information that have been groundlessly classified by the officials from its subordination.

(4) Heads of state archives are entitled to declassify the physical media of information defined as state secret that are kept in the closed funds of archives, providing that organization that created the fund or its legal successor delegates such duties to them. In case of liquidation of the organization that created the fund and the in absence of its legal successor, the issue of declassifying the physical medium of information defined as state secret is examined by the interdepartmental Commission for State Secret Protection.

Chapter IV

Holding information defined as state secret

Article 19. Transmission of information defined as state secret by the public authorities and legal entities.

(1) Transmission of information defined as state secret by public authorities and other legal entities, which do not have subordinate relations and do not perform joint activities, is done with the permission of public authority which holds this information.

(2) Public authority and other legal entities, that request the information defined as state secret, are bound to create conditions that would ensure the protection of this information. Their heads bear personal liability for the infringement of the established restriction on disclosing information defined as secret.

(3) A compulsory condition for transmitting information defined as state secret to the public authorities is the observance of the terms stipulated in paragraph (3), article 32 of the present law, but for other legal entities – the presence of security certificate for carrying out activities by using information defined as state secret.

(4) The procedure of transferring information defined as state secret by the public authorities and other legal entities is established in the Regulation on ensuring secret regime within public authorities and other legal entities.

Article 20. Transmission of information defined as state secret with respect to performing joint activities and other works

(1) Transmission of information defined as state secret to legal entities and citizens, due to the performance of joint actions and other works, is done by the beneficiary of these works with the permission of the public authority authorized to possess this information and only in the amount necessary for the performance of this works. Moreover, before sending the information defined as state secret, the beneficiary is bound to find out if the legal entity holds the security certificate for performing works by using secret information of respective secrecy level, and the citizens – are entitled to have access to corresponding information defined as state secret.

(2) While performing joint activities and other works, as well as the appearance of the necessity to use information defined as state secret, legal entities, including those with private capital, can conclude with legal entities, that hold the security certificate, contracts for using services provided by their interior subdivisions for the protection of information defined as state secret, a fact that is notified in the security certificate for performing activities by using information defined as state secret.

(3) The contract for carrying out joint activities and other works, signed according to the procedure set by the law, provides the mutual obligations of the parties to ensure the integrity of information defined as state secret both during the process of carrying out the work and after its finalization, as well as the terms for financing activities (services) of state secret protection.

(4) If during the performance of the joint activities and other works, the executor violates the obligations of state secret protection, the beneficiary is entitled to suspend the execution of the order until the violations are eliminated, and in case of repeated violations – to request the annulment of the order and security certificate for performing works by using the information defined as state secret and sentencing the guilty persons. The material damage caused to the state by the executor, as a beneficiary, is to be compensated according to the legislation.

(5) The procedure of transmitting information defined as state secret with respect to performing joint activities and other works, is set by the Regulation of ensuring a secret regime within the public authorities and other legal entities.

Article 21. Transmission of Information Defined as State Secret to other States or International Organizations

(1) To adopt the decision on transmission of information defined as state secret to other states and international organizations, the public authority presents to the inter-departmental Commission for State Secret Protection a justified proposal, coordinated with the Information and Security Service and public authority authorized to possess this information.

(2) Inter-departmental Commission for State Secret Protection approves an expertise conclusion regarding the possibility and opportunity to transmit information defined as state secrets.

(3) Decision on transmitting the information defined as state secret to other state and international organizations is adopted by the government on the basis of the expertise conclusion presented by the Inter-departmental Commission for State Secret Protection, unless other terms are provided in the international treaty the Republic of Moldova is a party to.

(4) The obligations of the party that receives information defined as state secret for their protection are stipulated in the concluded agreement (contract).

Chapter V State Secret Protection

Article 22. State Secret Protection Bodies

(1) The bodies authorized to protect the state secret are:
a) Interdepartmental Commission for State Secret Protection;
b) Information and Security Service;
c) Public authorities, other legal entities and their interior subdivisions for the protection of information defined as state secret.

(2) Inter-departmental Commission for State Secret Protection is a

collegial body that coordinates the activity of the public authorities in the field of state secret protection. Inter-departmental Commission exercises its duties according to the Regulation, approved by the Government.

(3) Information and Security Service organizes and ensures the state secret protection, according to the duties empowered by the legislation and international treaties the Republic of Moldova is a party to.

(4) Public authorities, other legal entities ensure the state secret protection according to the tasks that are within the scope of their competence. The heads of public authorities and legal entities bear the responsibility for ensuring state secret protection within these organisations. Considering the volume of activities that are to be performed by using the information defined as state secret, the heads of public authorities and other legal entities create interior subdivisions for the protection of information defined as state secret, whose duties are determined by these heads in compliance with the Regulation on ensuring a secret regime within the public authorities and other legal entities, taking into consideration the specific character of the performed actions.

Article 23. Condition for safekeeping the physical media of information defined as state secret

(1) Conditions for safekeeping the physical media of information defined as state secret are set in the Regulation on ensuring a secret regime within the public authorities and other legal entities.

(2) Taking into consideration the specific character of the activities performed by the public authorities and in compliance with the conditions mentioned in paragraph (1), the heads of these organisations may set special conditions for the safekeeping of the physical media of information defined as state secret.

Article 24. Granting and re-granting the right of access to state secrets to the citizens

(1) Granting the right of access to state secret to the citizens of the Republic of Moldova is done on voluntary basis, according to the procedure set by the Regulation on ensuring a secret regime within the public authorities and other legal entities, and stipulates:

- a) establishing the need to work with information defined as state secret;
- b) the citizen's written consent for being subject to control measures by authorised bodies;
- c) inspecting the citizen with respect to granting or repeated granting of the right of access to state secret;
- d) citizen assumes in written the obligation to keep the state secret that

he/she is to be entrusted;

e) citizen's written consent restricting his/her rights with respect to access to state secret provided by the law;

f) informing the citizen, by putting his/her signature, about legislative norms that stipulate the liability for infringing legislation on state secret;

g) determining types, measures and procedure to grand compensations with respect to performing works that imply access to state secret;

h) adopting the decision by the head of public authority or other legal entity on granting the right of access to state secret.

(2) Taking into consideration the secrecy level of information, the following forms of access to state secret are established:

1st form – for the work with information defined as state secret whose secrecy level is “top secret”, “secret”, “confidential” and “restricted”;

2nd form – for the work with information defined as state secret whose secrecy level is “secret”, “confidential” and “restricted”;

3rd form – for the work with information defined as state secret whose secrecy level is “confidential” and “restricted”;

4th form – for the work with information defined as state secret whose secrecy level is “restricted”;

As well as the following terms for granting access to state secret:

For the 1st form – 5 years;

For the 2nd form – 2-7 years;

For the 3rd form – 3-9 years;

For the 4th form – 4 -12 years.

(3) The right of access to state secret cannot exceed the duration of the duties that served as a ground for its granting.

(4) The right of access to state secret is granted to the citizens of the Republic of Moldova with full legal capacity, starting with the age of 18, who need this right for their official duties, production, scientific activities and scientific research work or for their studies, through an order or written disposition of the head of public authorities or any other legal entity this citizen is employed, performs his/her service or studies.

(5) The head of the public authority or other legal entity is granted the right of access to state secrets through an order or written disposition of the official who appointed him/her. In case the public authority, other legal entity is not subordinated to a public authority or to a legal entity, or is not in their area of administration, the right of access to state secret is granted through an order or written disposition of the head of public authority or other legal entity, who is the

beneficiary of the activities related to state secrets.

(6) If the citizen's need to possess information defined as state secret is not related to his/her job, service or study, the right of access state information can be granted at the place of carrying out the activity related to state secret.

(7) Decision on granting the right of access to state secret is taken within 5 days as from the day when the public authority or other legal entity receives a conclusion over its control materials related to the granting of the right of access to state secret.

(8) Mutual obligations of the administration and the person who is granted the right of access to state secret is stipulated in the labour contract.

(9) Repeated granting of the right of access to state secret is done in the following cases:

- a) expiration of term for which the right of access to state secret was granted, if is still needed to for the work with information defined as state secret;
- b) granting other form of access to state secret with respect to the need for the activity related to information defined as state secret having a higher secrecy level.

(10) Public authorities, other legal entities who work with state secret, shall keep a register regarding the personnel who have the right of access to state secret.

(11) Regarding the work related to interstate secrets, scientists, experts, translators, technical workers as well as other experts who, according to the current legislation of their status, have access to the work related to state secret, are involved in the realization of collaborations.

Article 25. Denial to grant the right of access to state secret

(1) The right of access state secret is not granted to citizens in the following cases:

- a) the citizen does not have a justified need to work with information defined as state secrets;
- b) the citizen supports the activity of a foreign state, organization or their representatives, as well as some foreign citizens or stateless persons that harm the interests and/or security of the Republic of Moldova or the citizen's participation in the activities carried out by parties, public associations, that is suspended, restricted or prohibited by the procedure set by law.
- c) revealing, as a result of control measures, some actions committed by the citizen that threaten the security of the Republic of Moldova;
- d) the citizen's denial to provide a written consent for the performance of control measures by the authorized bodies, to restrict his/her rights related to

access to state secret, stipulated in the present law or to assume in written the obligation concerning the safekeeping of state secret that he/she was entrusted.

e) the presence of criminal record for deliberately committed crime, being under criminal proceeding or the restriction of his/her legal capacity by the law court;

f) submitting requests for the denial of the citizenship of the Republic of Moldova;

g) holding multiple citizenship;

h) the presence of some medical counter-indications related to using information defined as state secret, according to the list approved by the Ministry of Health;

i) communicating incomplete or unauthentic data while granting the right to state secret;

j) the citizen's permanent residence abroad or issuing documents allowing permanent residence in another country;

k) the citizen's non-execution of obligations on the protection of state secret that he/she is entrusted or has been previously entrusted.

(2) Decision on the denial to grant the right to state secret is taken by the head of public authority or other legal entity, taking into consideration the investigation results of each citizen. The decision is made known to the citizen in written and can be appealed in the hierarchically higher institution or court.

Article 26. Inspection of citizens regarding the granting of the right of access to state secret

(1) Inspection of citizens regarding the granting (repeated granting) of the right of access to state secret is carried out by the Information and Security Service, within a month, according to the procedure established by the present law and the Law on Operative Investigation. The amount of inspection measures directly depends on the secrecy level of the information the persons has access to.

(2) Within the inspection, Information and Security Service sets the presence or absence of the provisions set in letters b), c), f), g), i), j) and k) of paragraph (1), article 25 of the present law.

(3) The presence or absence of the grounds provided in letters a), d), e) and h), paragraph (1), article 25 of the present law is set by the public authority, other legal entity who grants the right to state secret to the citizen.

(4) The conclusion of the Information and Security Service on the impossibility to grant the right of access to state secret to the citizen is executory for the officials empowered to take the decision on granting the right of access to

state secrets, but does not exclude a repeated request, in case of eliminating the circumstances that make granting the right to state secret impossible.

(5) It is not allowed to appoint (employ) the citizen to a function that implies work with information defined as state secret or granting the access to state secret before presenting the conclusion over the inspection materials of the citizen.

Article 27. Suspension and cessation of the right of access to state secret

(1) The right of access to state secret is suspended in the following cases:

a) accusing the citizens of committing a crime that is not suitable to his/her activity that implies the usage of information defined as state secret, until the legal decision becomes final and irrevocable.

b) initiating an official investigation related to the violation of the obligation to keep the state secret, until the research is finished and the final decision is adopted, but not more than 30 days.

(2) The right of access to state secret may be suspended in case of having the need to carry out an additional investigation with respect to a possible appearance of the circumstances provided in article 25 of the present law, until the end of investigation, but it shall not exceed 30 days.

(3) The right of access to a state secret ceases in the following cases:

a) appearance or revealing the grounds provided in article 25 of the present law;

b) dismissal from the position (the cessation of the individual labour contract), that implies work with information defined as state secret;

c) infringing, even once, the obligations provided in the labour contract related to the state secret protection;

d) the loss of the citizenship of the Republic of Moldova.

(4) Decision on suspension and cessation of the right of access to state secret is taken by the official empowered to take the decision on granting this right and it can be appealed in the hierarchically higher institution or in the administrative contentious court.

(5) The citizen whose right to state secret was ceased, but he/she needs to enjoy this right in order to be able to fulfil the functional obligations, according to the procedure set by the labour legislation, is to be transferred to another job (position) that has nothing in common with the information defined as state secret, and in case it is not possible to transfer him/her to another position, he/she is to be dismissed from his/her position.

(6) Suspension or cessation of the right of access to state secret, does not

release the citizen from the assumed obligations concerning the safekeeping of state secret.

(7) The procedure of granting, repeated granting and cessation of the right of access to state secret is established by the Regulation on ensuring a secret regime within the public authorities and legal entities.

Article 28. Special Procedure for the Access to State Secret

(1) The president of the Republic of Moldova, President of the Parliament and members of the Parliament, Prime Minister, Ministers, the chairperson of the Constitutional Court, chairperson of the Supreme Court of Justice, Prosecutor General, the head of Information and Security Service, the head of the Service of State Protection and Guard, the Governor of the National Bank of Moldova, the president of the Court of Accounts, the president of the National Commission of Financial Market and the heads of other central administrative authorities stipulated in the law No.64-XII of 31 May 1990 on Government, are entitled to access to state secret as soon as they are appointed. These persons' access to state secret of all secrecy levels is granted in compliance with the held position, and after presenting the written obligation on keeping the state secret.

(2) The provisions of paragraph (1) are not applied to the persons who hold multiple citizenship.

(3) The procedure to access to state secret under the conditions of declaration of state of emergency, siege or war can be amended through a governmental decision.

(4) The access to state secret of the foreign citizens or stateless persons is granted in exceptional situations on the ground of international treaties the Republic of Moldova is a party to, or on the ground of the written order issued by the Prime Minister, adopted on the basis of the proposals of interdepartmental Commission for State Secret Protection, taking into consideration the necessity to ensure the interests and/or security of the Republic of Moldova.

Article 29. Citizen's obligation on keeping the state secret

The citizen who was granted the right of access to state secret is bound to:

a) not to allow, through any method, the disclosure of the state secret that was entrusted or became aware of it while carrying out his official duties;

b) not to participate in the activity carried out by parties or public association that is suspended, limited or prohibited by the law.

c) not to support the activity of a foreign state, organization or their representatives, as well as foreign citizens of stateless persons who harm the interests and/or the security of the Republic of Moldova;

- d) to execute the requirements for the insurance of a secret regime;
- e) to inform the official who granted him/her the right of access to state secret and interior subdivisions for the protection of information defined as state secret about the appearance of the circumstances provided in article 25 of the present law or other circumstances that hinder the safekeeping of the entrusted state secret, as well as about his/her departure from the territory of the Republic of Moldova.
- f) to observe other legal provisions on state secret.

Article 30. Restrictions imposed on the exercising of some citizens' rights due to the right of access state secret

Limiting the some citizen's rights due to the right of access state secret can be referred to:

- a) restrictions imposed to using the discoveries and inventions that contain information defined as state secret and dissemination of this information;
- b) inviolability of private life while carrying out control measures during the period of granting (repeated granting) of the right of access to state secret.

Article 31. Compensations granted to the citizens due to performance of work that implies access to state secret

(1) In case the citizen works on a permanent basis with information defined as state secret, according to the terms of its professional activity, he /she has a rise in wage depending on the secrecy level of information he/she has access to.

(2) Employees of the interior subdivisions for the protection of information defined as secret, additionally to the incentives provided in article (1) have rise in wages for their working experience in the mentioned subdivisions.

(3) The sizes and the procedure to grant the rise in wages is stipulated in paragraph (1) and (2), as well as other types of compensations granted to the citizens who work under a regime are established by the Government.

Article 32. Security certificate for performing works by using information defined as state secret

(1) The activity of legal entities, except that of public authorities, related to the usage of information defined as secret, creating means to protect the information, undertaking measures and/or providing services for the protection

of state secret, is carried out according to the security certificate issued in compliance with the procedure set by law.

(2) The security certificate is issued after carrying out the special expertise of the legal entity regarding the existence of conditions for carrying out activities related to state secret and certification of its head. The certification of the head of a legal entity is done according to the procedure set by the Regulation on ensuring a secret regime within the public authorities and legal entities.

(3) Security certificate for carrying out the activities related to using information defined as state secret is issued to the legal entity, providing that:

a) according to the normative acts, competence, tasks, orders, state agreements, contracts, it shall perform work by using information defined as state secret;

b) has premises for carrying out works implying the usage of information defined as state secret, places to keep secret documents and other physical media of information defined as state secret, that are in compliance with the requirements of ensuring a secret character to the mentioned works, exclude the possibility of unauthorized persons to have access to them, guarantee the safekeeping of physical media of information defined as state secret;

c) observes the requirements set by the legislation on secret regime of the works and other measures related to using information defined as state secret, on the procedure of granting the right of access to state secret and organization of access to information defined as state secret, or receiving foreign citizens, using state ciphers and cryptographic means etc;

d) has at its disposal interior subdivisions for protection of information defined as state secret and/or special employees trained for state secret protection;

e) Holds of certified means of protecting the information.

Article 33. State secret protection in case of changing the functions of the subjects of legal relations

(1) Public authorities and other legal entities, who hold information defined as state secret, in case of reorganization or liquidation, or the cessation of the works that imply state secret, are bound to undertake measures for ensuring protection of this information and their physical media.

(2) The physical media of the information defined as state secret are destroyed, are handed over for safekeeping in the archive or are transmitted according to the established procedure to:

a) the legal successor of the public authority or to other legal entity holding information defined as state secret, in case this legal successor is authorized (by a security certificate) to carry out activities implying the usage of

this information;

- b) public authorities authorized to possess this information;
- c) other public authority or legal entity, at the decision of the interdepartmental Commission for State Secret Protection.

Article 34. State Secret Protection within Court Trials

Criminal, civil, administrative contentious cases, during which information defined as state secret are presented, are examined within a closed hearing, observing the procedure rules as well as the provisions of the present law.

Article 35. Technical and cryptographic protection of information defined as state secret. Certifying means for the protection of information defined as state secret

(1) Technical and cryptographic protection of the information defined as state secret is done according to the procedure set by the Regulation on ensuring a secret regime within public authorities and legal entities.

(2) Means for the protection of information defined as state secret shall have a certificate proving their compliance with the requirements for the protection of information with the respective secrecy level.

(3) The organization and coordination of certification and expertise of the means for the protection of information defined as state secret is the duty of the Information and Security Service. The certification is carried out according to the normative acts in this field and the requirements of national standards of the Republic of Moldova.

Article 36. Financing measures of state secret protection

(1) The activity of public authority and that of legal entity funded from the state budget and the budget of the territorial-administrative units, as well as their interior subdivisions for the protection of information defined as state secret are financed from the respective budgets, but the other legal entities are funded from their own budget.

(2) Legal entities that carry out works that imply the usage of information defined as state secret can be granted fiscal facilities as well as other facilities according the procedure set by law.

(3) The supervision over the financial means allocated for the implementation of the measures for the state secret protection is carried out by the heads of public authorities and other legal entities, their subdivisions for internal financial control, as well as the special authorized representatives of the

Court of Accounts and the Ministry of Finance. If this control implies the access to state secret, the abovementioned persons shall have the right of access to information of the respective secrecy level.

Chapter VI

Control over state secret protection

Article 37. Control over state secret protection

(1) The control over state secret protection is carried out with the purpose to study and appreciate the real situation concerning the safekeeping of state secret, finding out the shortcomings and violations of the secret regime, revealing the origin of these shortcomings and developing proposals for their prevention and elimination.

(2) The heads of public authorities and other legal entities, their interior subdivisions for the protection of information defined as state secret are bound to exercise a permanent control over the insurance of protection of the information defined as state secret that are held by them or by the legal entities from their subordination.

(3) Information and Security Service is authorized to control the situation regarding state secret protection within the public authorities and other legal entities. The conclusions of the Information and Security Service, developed on the basis of the results of the control carried out over the situation regarding state secret protection are compulsory to be executed by officials from the public authorities and other legal entities.

(4) Information and Security Service is bound to inform the Parliament on the findings and conclusions drawn from the activity carried out in the field of state secret protection.

(5) The control over state secret protection in the Apparatus of the Parliament, of the President of the Republic of Moldova and that of the Government is performed by the heads of these bodies.

(6) Public authorities and other legal entities that are the beneficiaries of the activities implying the usage of information defined as state secret are bound to control the situation regarding the protection of the information defined as state secret sent to the entrepreneurs in connection with the order execution.

Chapter VII

Liability for Violating the Legislation on State Secret

Article 38. Liability for Violating the Legislation on State Secret

Officials and citizens bear criminal, administrative, disciplinary liability according to the legislation for the infringement of the present law.

Chapter VIII Final Provisions

Article 39.

(1) The present law comes into force within 3 months as from the date of its publication.

(2) The government, within 3 months as from the date this law came into force:

will submit to the Parliament proposals on adjusting the current legislation to the present law;

will adjust its normative acts to the present law;

will develop normative acts necessary for the implementation of the present law;

will ensure that public authorities adjust their normative acts to the provisions of the present law.

Article 40.

As from the date when the present law becomes effective, the Law No. 106-XIII of 17 May 1994 on State Secret (The Official Gazette of the Republic of Moldova, 1994, No.2, article 5) with its further amendments and completions, is abrogated.

President of the Parliament