

Law on the protection of classified information

Parliament of Romania

The Chamber of Deputies

The Senate

The Parliament of Romania hereby adopts the present law.

CHAPTER I General Provisions

SECTION 1 Directives

Art.1. – The purposes of this law is the protection of classified information and confidential sources that provide this kind of information. The protection of this information is made by establishing the national system of protection of information.

Art.2. - (1) The right of access to public information is guaranteed. (2) The access to classified information is given only in the circumstances and the conditions provided for by law.

Art.3. - No provision of this law may be construed as limiting the access to the information of public interest or ignoring the Constitution, the Universal Declaration of Human Rights, the agreements and other treaties that Romania has signed, regarding the right to receive and share information.

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

- a) protecting classified information against espionage, disclosure or unauthorized access, alteration or change of its contents, as well as sabotage or unauthorized damages;**
- b) securing the informatics systems and systems of transmission of classified information;**

Art.5. - The measures triggered by the implementation of the law are aimed at:

- a) preventing unauthorized access to classified information;**
- b) identifying the circumstances, as well as persons who, through their actions, may prejudice the security of classified information;**
- c) making sure that classified information is disseminated only to the persons mandated by law to be informed;**
- d) ensuring the physical protection of the information and the personnel tasked with protecting classified information.**

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

(2) The standards pursuant to paragraph (1) shall be in keeping with the national interest, as well as with NATO criteria and recommendations.

(3) In case of a conflict between the internal regulations on protecting classified information and NATO regulations, NATO regulations shall prevail in this respect.

Art.7. – (1) The persons who shall have access to “State Secret” classified information will be previously cleared in terms of honesty and professionalism for using this class of information.

(2) As regards the candidates for public functions involving the work with such information, as well as the competence to authorize the access to such information, the clearance is performed before he/she is appointed to that position and it is compulsorily required by the appointing authority.

(3) The clearing procedures are the ones mandatory for the persons working with the National Security Authority, who handle NATO information, according to the equivalence of the security levels pursuant to this law.

Art.8. – The personnel specifically designated for protecting classified information are included in a permanent training and specializing system, working on a regular basis, according to the national protection standards.

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

- a) juridical protection;**
- b) protection through procedural measures;**
- c) physical protection;**
- d) protection of the personnel that has access to classified information or is designated to secure its safety;**
- e) protection of the sources that provide information.**

Art.10 – (1) The institutions that hold or make use of classified information will keep a record of the clearances given to the personnel, with their written approval.

(2) Each clearance is rechecked every time it is necessary to guarantee that it is in accordance with the standards that apply to the position occupied by the respective persons.

(3) Rechecking the clearance is compulsory and it represents a priority each time there appear indications that its maintenance is no longer compatible with the security interests.

Art.11 – The access to the buildings and digital infrastructures where activities involving classified information are carried out or where this kind of information is being kept or stored is allowed only in authorized cases.

Art.12 – Protection standards of classified information, entrusted to persons or organizations outside the governmental structures, will be unconditionally compatible with those set up for this kind of structures.

Art.13 – Requesting security clearances for the persons with direct duties in the field of classified information protection is mandatory.

Art.14 – The Country’s Supreme Defense Council provides the coordination at the national level of all the programmes for safeguarding classified information.

SECTION 2 Definitions

Art.15. – For the purposes of this law:

a) “information” means any document, data, facility or activity regardless of its physical form, shape, way of expression or dissemination;

b) “classified information” means information, data, documents of interest for national security that, due to the level of importance and consequences that might incur following the unauthorized disclosure or circulation, must be protected;

c) the security classes are: state secrets and professional secrets;

d) “state secret information” – information relating to national security whose disclosure may prejudice the national security and the country’s defence;

e) “professional secret information” – information whose disclosure would bring prejudice to legal persons of private or public law;

f) the security levels shall be assigned only to classified information belonging to the state secrets class and are subdivided into:

- top secret – information whose unauthorized disclosure could be expected to cause exceptionally grave damages to national security;

- secret – information whose unauthorized disclosure could be expected to cause serious damage to national security;

- confidential – information whose unauthorized disclosure could be expected to cause damage to national security;

g) “juridical protection” – the whole of constitutional regulations and of the other provisions of the law in force, which regulate the protection of classified information;

h) “protection through procedural measures” – the whole of regulations through which the persons who emit or hold classified information set out measures of work and internal order for protecting information.

i) “physical protection” – the whole of guard, security and defense activities, through measures and devices for physical checking and through technical means, of the classified information;

j) “protection of the personnel” – the whole of vetting and measures destined to the persons with work attributions relating to classified information, in order to prevent and eliminate security risks for the classified information protection;

k) “security clearance certificates” – documents which confirm the vetting and accreditation of a person to detain, have access to and work with classified information.

CHAPTER II State Secret Information

Art.16. – The protection of state secret information is an obligation of the authorized persons that issue it, handle it or enter in its possession.

Art.17. - State secret information is the information that represents or relates to:

a) the defense system of the country and its basic elements, military operations, as well as technologies and specifications of weaponry, and specific military equipment for the exclusive use within the elements of the national defense system;

b) plans, as well as the military facilities, manpower, and the missions of the forces involved;

c) state cipher and other encrypting elements established by the competent public authorities, as well as the activities relating to their implementation and use;

d) the organization of the systems for protecting and defending the facilities, sectors and networks of special and military computers, including the mechanisms for their security;

e) data, charts and programmes relating to the systems of telecommunications, special and military computer networks, including the mechanisms for their security;

f) the activity of information collecting carried out by public authorities provided for by law, for the defense of the country and national security;

g) the means, methods, and the working installations and equipment, as well as the sources of specific information, used by public authorities that engage in information gathering;

h) maps, topographic charts, thermograms, and aerial pictures of any type, on which there are represented elements of contents or objectives classified as state secrets;

i) studies, geological surveys and gravimetric measurements of higher density per square kilometer by which evaluations are made of the national deposits of metals and rare/precious minerals, disperse and radioactive ones, as well as the information relating to material reserves that are in charge of the National Administration of State Reserves;

j) systems and means to supply with electric power, thermopower, water and other agents necessary for the functioning of objectives classified as state secret;

k) scientific, technological and economic activities and investments relating to national security or national defense or which are of utmost importance for the economic, technical and scientific interests of Romania;

l) scientific researches in nuclear technologies, except for the fundamental ones, as well as the programmes for the protection and security of nuclear materials and installations;

m) issuing, printing banknotes and minting metal coins, the matrixes of the monetary issues of Romania's National Bank and the elements of security of monetary insignia in order to discover forgeries not meant to be made public, as well as the printing and typing of value papers such as the treasury bills, treasury bonds;

n) the foreign relations and activities of the Romanian state, which, according to law, are not meant to be made public, as well as the

information of other states and international organizations in relation to which, through treaties or international agreements, the Romanian state has taken the obligation to protect.

Art.18. - (1) State secret information is classified according to the importance of the protected values, at levels of security.

2) The security levels attributed to classified information of the state secrets class are subdivided into:

- top secret;**
- secret;**
- confidential.**

Art.19. – These are the persons authorized to give one of the security levels of information when they are formulated:

a) for top secret information:

- 1. the President of Romania;**
- 2. the President of the Senate and of the Chamber of Deputies;**
- 3. members of the Country’s Supreme Defense Council;**
- 4. the Prime-Minister;**
- 5. members of the Government and the Secretary General of the Government;**
- 6. the Governor of Romania’s National Bank;**
- 7. the Directors of the national intelligence services;**
- 8. the Director of the Protection and Guard Service;**
- 9. the Director of the Special Telecommunications Service;**
- 10. the Secretary General of the Senate and of the Chamber of Deputies;**
- 11. the Chairman of the National Statistics Institute;**
- 12. the Director of the National Administration of State Reserves;**
- 13. other authorities designated by the President of Romania or by the Prime-Minister;**

b) for secret information – the authorized persons mentioned under paragraph a), as well as the senior officials with the rank of secretary of state, in accordance with their actual competences;

c) for confidential information – the authorized persons mentioned in subsections a) and b), as well as the senior officials with the rank of sub-secretary of state, secretary general or director general, in accordance with their actual competences.

Art.20. – Any Romanian natural or legal individual may appeal to the authorities that have classified the respective information, against the classification of information, the period they have been classified for and against the way a certain level of security has been assigned. The appeal shall be solved in accordance with the provisions of the law of the legal department.

Art.21. – (1) The National Register Office of State Secret Information is set up under the jurisdiction of the Government.

(2) The National Register Office of State Secret Information shall organize the record of the lists and information falling under this category and the periods of maintaining the classification levels, the personnel

vetted and cleared for working with state secret information, of the clearances records mentioned under art.10.

Art.22. – (1) The public authorities shall compile their own lists including the categories of state secret information in their activity fields.

(2) The lists comprising state secret information, classified at security levels, drawn or held by public authorities or institutions shall be approved and updated by government rule.

(3) The Government rules regarding the approval of the lists including state secret information shall be conveyed to the Romanian Intelligence Service, the Foreign Intelligence Service and, where applicable, to the other intelligence structures that have, according to law, tasks of developing specialized protection measures.

Art.23. – (1) The institutions holding state secret information shall be responsible for developing and implementing procedural measures of physical protection and protection of the personnel that have access to information under this category.

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

Art.24. – (1) The documents comprising state secret information shall carry, on each page, the level of security, as well as the note “personal” when they are strictly meant for specified individuals.

(2) A Government rule shall establish the regulations of identifying and marking, the compulsory inscriptions and comments on state secret documents, according to their security level, the requirements of registering the number of copies and the consignees, the periods and rules of keeping them, the bans on their duplication and circulation.

(3) Classifying state secret information at one of the levels set forth in art.15 paragraph (f), as well as the norms regarding the minimum protection measures within each class, are established through a Government decree.

(4) The information, classified according to art.15 section (f), can be declassified under a Government decision, at the justified request of the issuer.

5) It is forbidden to classify as state secret any information, data and documents with a view to concealing violations of the law, administrative errors, restricting access to public interest information, illegal limitation of the exercise of the rights of any person or prejudicing any legitimate interests.

6) The information, data or documents regarding a fundamental scientific research with no reasonable link to national security may not be classified as state secrets.

7) The public authorities that produce or work with secret information shall issue a guide to make a proper and uniform classification of state secret information, in strict compliance with the law.

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

9) Authorized personnel who duplicate, draw out or summarize the contents of any secret document shall write on the new document the same comments as on the original.

10) The declassification or downgrading shall be made by the persons or public authorities authorized to approve the classification and the security level of the respective information.

Art 25 - (1) The overall coordination of the activity and control of the measures on safeguarding state secret information is implemented by a specialized department of the Romanian Intelligence Service.

(2) The Ministry of National Defense, The Ministry of the Interior, the Justice Ministry, the Romanian Intelligence Service, the Foreign Intelligence Service, the Service of Protection and Guard and the Service of Special Telecommunications establish the structures and their own measures for coordinating the activity and control of the measures relating to the protection of state secret information, according to law.

(3) The coordination of the activity and control of the measures concerning the enforcement of state secret information for the Central State Office for Special Problems and the National Administration of State Reserves is carried out by the Ministry of National Defense.

(4) Parliament, Romania's Presidency, The Government and the Country's Supreme Defense Council establish their own laws concerning the protection of state secret information, pursuant to law. The Romanian Intelligence Service provides these institutions with specialized expertise in and checks on the procedures used for achieving the protection of intelligence.

(5) The protection of information not meant to be accessible to the public, conveyed to Romania by other states or international organizations, as well as the access to their information is made under the conditions established through international treaties and agreements that Romania has adhered to. To that end, the competent national authorities shall be assigned.

Art.26. - (1) For the Romanian representations abroad, the coordination of the activity and control of the measures regarding the protection of state secret information is done by the Foreign Intelligence Service under the provisions of this law.

(2) The coordination and control of the measures concerning the protection of the state information regarding the specific work of the military attaches within Romania's diplomatic missions and of the military representatives in international bodies is done by a specialized structure in the Ministry of National Defense.

Art.27. - (1) The National Security Authority discharges its duties of regulating, authorizing and checking, according to NATO standards, with respect to the protection of classified information.

Art.28. - (1) The eligibility of a person to have access to state secret information shall be allowed only under a written clearance given by the

head of the legal person who holds such information, after prior notification of the National Register Office of State Secret Information.

(2) The authorization is given for levels of security as provided for in art.15, section (f) following the security vetting carried out on the person involved, with the written agreement of this person.

(3) The access to NATO classified information shall only be allowed under the security clearances issued by the National Security Authority, following the vetting by the authorized institutions.

(4) The validity duration of the security clearance is for 4 years; during this interval, security vetting can be resumed at any time.

(5) Denial of authorization or its withdrawal leads to, de jure, the forfeiture of the freedom of access to state secret information.

Art.29. - The heads of economic agents or of other legal persons of private law, as well as the natural persons that were entrusted with or are knowledgeable of state secret information in their relations of cooperation have the obligation to observe the legal provisions concerning their protection.

Art.30. - The access of foreign citizens and of Romanians who also have foreign citizenship, and of alien persons, to state secrets and to facilities where such activities are carried out, where objects are displayed or works are done that fall within this category, is given only in the situations and conditions established through international treaties that Romania is a signatory to or under a Government decision.

CHAPTER III Classified Professional Information

Art. 31. - (1) Classified professional information shall be ascertained by the head of the legal person on the basis of the regulations provided for by Government's decision.

(2) The information provided for in section (1) shall also carry on each page the mark "personal" whenever it is strictly addressed to specially designated persons.

(3) The provisions under article 28 shall be appropriately enforced in the classified professional information field as well.

(4) Any person guilty of negligence in preserving classified professional information shall be held responsible in accordance with law.

Art.32. - The heads of public authorities and institutions, of fully or partially state-owned economic agents, and other public legal individuals shall ascertain the classified professional information and the protection rules, shall coordinate the activity and oversee the measures pertaining to the maintenance of professional secrecy, according to their responsibilities, in line with the norms established by Government's decision.

Art.33. - It is forbidden to ascertain as classified all the professional information that, by its nature and content, is meant to keep the citizens

informed with public activities and person-related affairs or in order to favor or conceal breaches of law.

CHAPTER IV The Responsibilities of the Romanian Intelligence Service

Art.34. - In order to coordinate the activity and exercise its oversight over the measures pertaining to the protection of classified information within its jurisdiction, the Romanian Intelligence Service shall have the following responsibilities:

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

b) to monitor the actions undertaken by the public authorities in order to enforce the provisions of the present law;

c) it gives specialty approval of the programs aimed at deterring leaks of classified state information that have been formulated by the public authorities and institutions, regies autonomes, and trade companies in possession of such information;

d) it verifies the way in which legal provisions on safeguarding classified state information are observed and enforced by the public authorities and institutions;

e) conducts checks and reviews on the spot of programs relating to the protection of classified information;

f) co-works with the National Register Office of State Secret Information and the National Security Authority in all the matters pertaining to the implementation of this law;

g) it gives support, upon request, to the heads of public authorities and institutions economic agents, and private legal persons in establishing the objectives and sites of outstanding importance for safeguarding state secret information, and it submits to the Government for endorsement a centralized record;

h) it organizes and accounts for, in accordance with the legal provisions, the collection, transportation and distribution inside the country of all classified state mail and classified professional formal mail;

i) reviews and sets the measures pertaining to the complaints or suggestions relating to the way of implementing the programs for protecting classified information;

j) it makes inquiries on breaches of rules pertaining to the safeguarding of classified state information and enforces penalties as provided by law, and whenever the facts turn out to be crimes, it refers the matter to the criminal prosecution bodies.

Art. 35. - The Romanian Intelligence Service shall notify Parliament and the Country's Defense Supreme Council, yearly and whenever it deems necessary, of the findings and conclusions reached during the implementation of the activity for safeguarding state secret information within its jurisdiction.

CHAPTER V Obligations, Responsibilities and Penalties

Art. 36. - (1) Natural persons entrusted with classified information shall ensure its protection, in accordance with law, and shall abide by the provisions of the programmes on deterring leaks of classified information.

(2) The obligations provided for in Paragraph (1) shall be also maintained after the termination of work, job, or professional relationships during the whole period the information is being classified.

(3) The person who is due to carry out an activity or work in a job requiring access to classified information shall submit to the head of the organization a written pledge of safeguarding the secret information.

Art. 37. - (1) The public authorities, as well as other legal persons that are in possession of – or have been entrusted with classified state or professional information shall ensure the funds needed for fulfilling their duties, and for taking the necessary measures relating to safeguarding that information.

(2) Responsibility for safeguarding classified state information shall be borne by the head of the public authority or institution, or by other legal person in possession of information as the need arises.

Art. 38. - (1) State secret information shall be handled, transported or stored under the conditions provided for by law.

(2) It is forbidden the transmission of state secret information by cable or by wireless without using the special ways of communication provided by state cipher or other encrypting devices established by competent public authorities.

Art. 39. – (1) Breaching the legal regulations on protecting state and professional secrets is liable to contraventional, disciplinary, civil or penal responsibility, as the case may be.

(2) The employees of the security and intelligence services or of the army working in the area of foreign relations, as well as those having responsibilities in the field of safeguarding state secret information, charged with voluntary disclosures or negligence acts that have favored the disclosure or leaking of secrets, are irrevocably deprived of their qualities.

Art. 40. - (1) The contraventions of the regulations on the protection of classified information are set through a Government rule.

(2) The contraventional sanctions may be applied to legal persons as well.

CHAPTER VI Final Provisions

Art. 41 - (1) Within the public authorities or institutions and the economic agents that hold classified information, special departments shall be set up, with a view to keeping records of, transforming, processing, maintaining, handling and multiplying it, in safety conditions.

(2) The special departments laid down in section (1) are responsible to the head of the respective public authority or institution or to the economic agent.

Art. 42 - (1) Within 60 days since the issuance of the present law in the Official Gazette of Romania, Part I, the Government shall establish, through a ruling:

a) the classification of the state secret information and the regulations concerning the minimal protection measures within each department;

b) the general regulations relating to the way of drawing up, maintaining, processing, multiplying, handling, transmitting, destroying, keeping records of and transporting state secret information;

c) the objectives, sectors and places that have special importance for the protection of state secret information;

d) the obligations and responsibilities of public authorities and institutions, as well as those of the economic agents and other legal persons, for the protection of state secret information;

e) the regulations on the access to classified information and the procedure of security checks;

f) rules on foreigners' access to state secret information, as well as on the conditions for taking pictures, filming, mapping and making certain works of plastic arts in facilities or sites of particular importance for the protection of state secret information;

g) the contraventions of the regulations on the protection of classified information;

h) other rules that are necessary for enforcing the present law.

Art. 43. - The present law shall become effective 120 days from the date of its publication in the Official Gazette of Romania, Part I.

Art. 44. - (1) On the date of the entry into force of the present law, the Law no.23/1971 on protecting the state secret in Romania, published in the Official Bulletin no.157 on December 17, 1971, the Decree of the Council of Ministers no.19/1972 on certain measures concerning the protection of the state secret, published in the Official Bulletin no.5 on January 14, 1972, as well as any other contrary disposition, is abrogated.

(2) On the same date, the syntagm "state secrets" in the regulations in force shall be replaced with "state secret information".

This law was adopted by the Chamber of Deputies in the meeting of February 26, 2002, by observing the provisions of art.74, paragraph (2) of Romania's Constitution.

**PRESIDENT OF THE CHAMBER OF DEPUTIES,
VALER DORNEANU**

This law was adopted by the Senate in the meeting of April 8, 2002, by observing the provisions of art.74, paragraph (2) of Romania's Constitution.

**PRESIDENT OF THE SENATE,
DORU IOAN TARACILA**

Bucharest, April 12, 2002, no. 182