

# **The Law of Georgia On the State Security Service**

## **Chapter I - General provisions**

### **Article 1. State Security Service**

1. The State Security Service is a system of special law-enforcement militarised establishments included in the executive authority of Georgia, which within the limits of its competence shall provide safety of the person, society and the State from internal and external threat.

2. The system of the State Security Service includes: the Ministry of State Security of Georgia, its departments, central administrative boards, management, regional management, city and district divisions, divisions of special purpose, other structural sections of special scientific, research and educational establishments and ministries (21.05.2004 N 63-I).

3. The Ministry of State Security is a special governmental establishment providing the security of the state as the task assigned to it by the legislation of Georgia and this Law. Powers, structure and the order of activity of the Ministry of State Security shall be determined by the Regulation of the Ministry of State Security of Georgia, which upon the presentation of the government shall be approved by the order of the President of Georgia (21.05.2004 N 63-I).

### **Article 2. Principles and methods of activity of the State Security Service**

1. The principles and methods of activity of the State Security Service shall be:

- a) legality;
- b) observance and respect of the rights and freedoms of the person, the rights of legal persons;
- c) combination of forms of latent and obvious activity;
- d) subordination and accountability to the President of Georgia;
- e) unity and centralisation.

2. It shall be forbidden to create a political party or other political union in the State Security Service. The employee of the State Security Service may not be a member of a political party or other political union.

3. It shall be forbidden to disclose information on the private life of a person, information containing state secrets, and other information protected by law, materials of investigation and inquiry, except for cases stipulated by law.

4. The employee of the State Security Service shall be forbidden to arrange strikes or to participate in them, to work in combination on paid governmental, public or private enterprises, establishments and organisations, except for scientific, pedagogical or creative activity.

### **Article 3. Legal grounds of activity of the State Security Service**

1. Legal grounds of activity of the State Security Service shall be: the Constitution of Georgia, the international legal acts, this Law, laws of Georgia, normative acts of the President of Georgia, of the Parliament of Georgia, of the Government of Georgia, and of the Ministry of State Security of Georgia (21.05.2004 N 63-I).

2. Proceeding from the international treaties and agreements of Georgia, in the order established by law, the Ministry of State Security of Georgia shall cooperate with the corresponding services of foreign states in combating international terrorism, drug business, organised and other international crimes.

**Article 4. Main directions of activity of the State Security Service**

1. The main directions of activity of the State Security Service shall be:
  - a) protection of the constitutional system of Georgia, the sovereignty of the country, territorial integrity, scientific-economical and military potential from the illegal actions of the special services and separate persons of other states;
  - b) revealing, prevention, inquiry and preliminary investigation of crimes which fall under the competence of the bodies of the State Security Service in accordance with the Criminal Procedures Code of Georgia and are determined by the international treaties of Georgia;
  - c) realisation of measures on providing of protection of the state secret and control over their fulfilment in the order established by the legislation of Georgia.
2. The main directions of activity of the system of the State Security Service shall be determined and supervised by the Ministry of State Security of Georgia.
3. The State Security Service of Georgia in the order and in the frames established by law, shall present the information to the President of Georgia, the Parliament of Georgia, supreme bodies of government, mass media, natural and legal persons.
4. The sphere of activity of the State Security Service of Georgia shall be strictly determined and may be limited or extended only by law.

**Chapter II - Rights and duties of the State Security Service**

**Article 5. Duties of the State Security Service**

The State Security Service shall be obliged:

- a) to carry out counter-intelligence activity in order to prevent, reveal and suppress the intelligence activity of special services and organisations of foreign states directed against Georgia;
- b) in the order established by law to carry out operation and investigation measures (including latent video- and audio records, cinema and photography, external supervision, electronic control), getting information from technical communication channels (telephone, telegraph, fax, telex, radio communication, etc.) and control over either.
- c) in the order established by law, in cases related to its competence established by the legislation, to carry out inquiry and preliminary investigation, to search and detain criminals or persons suspected in crimes;
- d) to carry out counter-intelligence activity in the Military Forces of Georgia in order to ensure the state security;
- e) to take part in the actions against organised criminality, corruption and drug business together with the Prosecutor's Office, the Ministry of Internal Affairs, the Special State Protection Service and other governmental bodies (21.05.2004 N 63-I);
- f) in the order established by law to take part in the working out and realisation of measures on protection of the state secret, to carry out control over its preservation in those organisations (despite the form of their property), in which the activity connected with the state secret is carried out;
- g) to check the person for admitting to the state secret;
- h) jointly with the corresponding departments to carry out measures in ensuring the security of the state border of Georgia, vitally important facilities of strategic purpose, transport, communication means;
- i) to warn the state bodies, enterprises, establishments and organisation on those violations, which threaten the security of Georgia;
- j) to inform the President of Georgia, the Chairman of the Parliament of Georgia, the supreme governmental bodies and departments of the possible threat to the state security;

- k) in the frames of its competence, and in co-ordination with the Department of Protection of the state border of the Ministry of Internal Affairs and the Special State Protection Service, carry out operative ensuring of the protection of the state border of Georgia, strategic facilities and supreme officials of governmental bodies of state authority (21.05.2004 N 63-I);
- l) to provide the supreme governmental bodies and officials with separate, closed inter-city telephone “high-frequency” and also radio and telegraph communication;
- m) in the order established by the legislation of Georgia to carry out the control of import, export, production and use in Georgia of electronic means of surveillance (phone, microphone, special technical equipment of a radio communication and other means of surveillance, by means of which by the electronic or mechanical devices the latent links are revealed without the consent of one of the parties);
- n) for maintenance of the protection of state secrets in the order established by the legislation of Georgia, in enterprises, establishments and organisation to carry out the control over electronic communication and computer science facilities, which are used for creation, storage and transfer of information containing state secrets;
- o) in the order established by the legislation of Georgia, to check departments, enterprises, establishments and organisation for registration of the appropriate sanctions for granting of the right to realisation of activity connected with the state secret;
- p) within the limits of its competence, and on the basis of interstate treaties and agreements jointly with the corresponding departments, to take measures in the maintenance of personal and property safety of representations of foreign states and international organisation on the territory of Georgia, and also safety of the establishments and citizens of Georgia outside of Georgia;
- q) under decision of the President or Parliament of Georgia to participate in the ensuring of actions on security of international character;
- r) to provide safety and readiness of the state mobilisation-induction stations and headquarters of operative management during a state of emergency or martial law;
- s) to provide full mobilisation readiness of the bodies of state security;
- t) to provide safety and departmental communication;
- u) to carry out legal maintenance of mutual relations with the bodies of legislative, executive and judicial authority;
- v) to accept and register the information on those crimes, record-keeping on which is relevant to the competence of the Ministry of State Security of Georgia, to carry out registration of persons who committed such crimes;
- w) in the order established by law to carry out preventive measures of those crimes, which, according to the law, are relevant to the competence of the Ministry of State Security of Georgia.

## **Article 6. The rights of the State Security Service**

### **1. The State Security Service shall have the right:**

- a) in the order established by law to carry out operative, investigation and operative-technical measures and investigation actions on the prevention, revelation and suppression of those crimes which, by the legislation of Georgia, are related to the competence of the Ministry of State Security of Georgia;
- b) in urgent cases to use a communication facility belonging to the state organisation, enterprises and establishments and also to public associations and citizens; at the same time the State Security Service shall be obliged to compensate owners of the communication facility utilised;
- c) in urgent cases for travel to a place of incident, for prevention of a crime or detention of persons committing a crime or suspected in its fulfilment, to use vehicles belonging to citizens, enterprises, organisation, establishments and public associations (except for vehicles belonging to diplomatic representatives, consulates and other establishments of the foreign states, international organisation); at the same time the State Security Service shall be obliged to compensate owners of the vehicles utilised or damaged
- d) in urgent cases determined by law, when delay creates a threat to the life and health of a person, freely to enter to the citizens dwellings and premises, on the territory of the enterprises, establishments, organisation, buildings and constructions (except for buildings and constructions

of diplomatic representatives, consulates and the international organisation with diplomatic immunity) for prevention of such crime, which, according to the legislation of Georgia, is related to the competence of the Ministry of State Security of Georgia, and for detention of the person who committed such crime or has been otherwise suspected. The State Security Service shall inform the court of this within twenty-four hours, which within 48 hours after receipt of materials shall check their legality;

e) in order to establish the identity of the person - to check the citizens' documents, certifying the person, if there are sufficient grounds to suspect them in a crime or if this check is connected with the performance of official duties by the employees of the Ministry of State Security of Georgia;

f) to receive free of charge from the enterprises, establishments and organisation the information necessary for the performance of tasks assigned to it, except for those cases, when the law establishes other orders concerning receiving information;

g) in case of need for performance of the assigned tasks, according to the legislation, for maintenance of State security - to appoint the officer on security issues in the State bodies and establishments of special value and also in the State representations of Georgia abroad;

h) to allow employees of the State Security Service to store and to carry the service regular weapon and special means, the use of which is allowed by this Law and legislation of Georgia;

i) to use voluntary confidential assistance of citizens of Georgia, citizens of foreign states and persons without citizenship, and establish with them open or latent relations;

j) to provide functioning of investigation isolator submitted to it.

2. Forms, methods and means of realisation of activity of the State Security Service shall be determined by the legislation of Georgia and legal acts of the State Security Service. Used methods and means may not harm the life, health of a person, humiliate his honour or dignity, nor inflict harm to the environment.

### **Chapter III. - Powers and means of the State Security Service**

#### **Article 7. Employees of the State Security Service**

1. Employees of the State Security Service shall be military servicemen and those employees, whose activity (open or latent) is directly connected with the solution of tasks determined by law.

2. The citizens of Georgia shall be taken in the State Security Service after special examination, if they are capable by their personal and business qualities, education, physical preparation and a state of health to carry out assigned functions.

3. According to the legislation, the citizens of Georgia shall be taken into military service in the State Security Service. The citizens, who under the legislation are exempt from military service (except for persons released on a state of health) may be also taken into military service in the case of their consent. The order and conditions of enlisting citizens in the military service shall be determined by the legislation of Georgia.

4. The following persons shall not be taken into the State Security Service:

a) persons previously convicted in court;

b) persons subject to alcoholism, drug addiction, toxic mania and other chronic diseases;

c) persons recognised as incapable in the judicial order.

5. Military servicemen of the State Security Service shall pass military service according to the Law of Georgia "On Military Duty and Military Service" and shall enjoy the rights and guarantees envisaged for military servicemen of military forces.

6. In special cases, highly skilled specialists may be involved in the State Security Service under special contracts.

7. Labour activity of the civil personnel of the State Security Service shall be regulated by the Labour Code

of Georgia.

8. In the State Security Service, as in the system of legal special militarised establishments, additional requirements on passing of service shall be established by the legislative act. *(23.10.2001 N1129)*

**Article 8. The right to use physical strength, special means and firearms by the employee of the State Security Service**

1. In the order established by law, on duty the employee of the State Security Service shall have the right to use physical strength, special means and service regular firearms.

2. The right to use firearms stipulated by the military legislation shall be also applied to the military servicemen of the State Security Service.

3. The employee of the State Security Service shall be obliged to warn the person of any use of physical means and fire-arms, to give him enough time to perform legal requirements of an employee of the State Security Service, except for cases in which delay can cause an encroachment on the health and life of citizens and employees of the State Security Service, other serious consequences or, if, in the existing situation, it is impossible to give such warning.

4. While determining the type of special means, and intensity of physical strength, a concrete situation, character of the offence and individual features of the infringer shall be taken into consideration.

**Article 9. The right of application of physical strength**

The employee of the State Security Service shall have the right to use physical strength, including special methods of fighting in order to protect his personal safety and the safety of citizens, to prevent the crime and to detain the criminal, if the use of non-violent methods do not assist the employee of the State Security Service in the duties assigned to him by law.

**Article 10. The right to use special means**

1. While performing official duties the employee of the State Security Service shall have the right to use special means: handcuffs or other means of binding, rubber baton, tear gas or gas of special influence permitted by international conventions, light-sound devices of psychological influence, means of barrier destruction, a compulsory stop of transport, water-thrower, an armoured car and other special vehicles, special paint, electroshock devices and service dogs in the following cases stipulated by the present article:

- a) handcuffs and other means of binding – with respect to the person who has committed a crime and shows resistance to the state security employee. Or, in trying to run; from a convoy of detained or arrested persons, if the person by its actions can harm themselves or other persons;
- b) a rubber baton - for repulsion of an attack on the citizen, on the employee of the State Security Service or protected facilities; detention of the person who has committed a crime, if he obviously does not submit to a legal requirement of the employee of the State Security Service;
- c) teargas or gas of special influence allowed by the international conventions - for repulsion of an attack on the employee of the State Security Service, on the citizens, and protected facilities; for releasing of hostages; detention of the person who has committed a crime or with the purpose of forcing him to leave a vehicle or building;
- d) light-sound device of psychological influence - for repulsion of an attack on governmental and public facilities, on the employees of the State Security Service or citizens; for detention of the person showing armed resistance; for eviction of the criminal from a building, construction, plot of land, vehicle; for release of hostages;
- e) means of a compulsory stop of transport - for a compulsory stop of a vehicle, in which the driver has not executed the legal requirement made by the employee of the State Security Service to stop;
- f) means of destruction of barrier - detention of the person who has committed a crime; for

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releasing hostages;

g) water-thrower and an armoured car - for the purposes of repulsion of a group attack on the state or public facilities; for a compulsory stop of a vehicle, the driver of which has not executed the requirement of the employee of the State Security Service - to stop a vehicle; for detention of armed criminals;

h) a special paint - for purposes of uncovering the person who has committed an illegal act;

i) a service dog - convoy of the person who has committed an illegal act, for repulsion of an attack on the employee of the State Security Service or on the citizens during operative - investigation measures;

j) the electroshock device - protection against an attack on the employee of the State Security Service, the citizen or protected facility.

2. The employee of the State Security Service shall be obliged to render the medical aid to persons injured from using special means or physical strength, immediately to notify the superior or the public prosecutor of the nature and extent of personal injury.

3. It shall be forbidden to use physical strength or special means against persons who are pregnant, to infants and the elderly or those with physical inability. The exception is for those who have participated in an armed or group attack or show armed resistance to the employees of the State Security Service.

4. The employee of the State Security Service shall be forbidden to use such means of physical strength or special means, which may cause serious traumas or unjustified risk to the person concerned, as outlined by international conventions and other international acts.

5. The order of storage, carrying and use of special means being in the armoury of the State Security Service shall be established by the legislation of Georgia.

### **Article 11. The right to use firearms**

1. The employee of the State Security Service shall have the right to store, carry and use service regular firearms.

2. The order of storage and carrying of firearms being at disposal of the employee of the State Security Service shall be established by the legislation Georgia.

3. The aimed shot shall be considered as the use of a firearm.

4. The employee of the State Security Service shall have the right to use service regular firearms as an extreme measure for:

a) protection of citizens and self-defence from danger threatening their life or health;

b) suppression of an attempt to take his fire-arms;

c) release of hostages;

d) suppression of runaways from places of detention or imprisonment;

e) suppression of a serious crime, at detention of the person committed such crime, if he shows resistance to the employee of the State Security Service, or at attempt to flight;

f) repulsion of an attack on the dwelling of citizens, protected facilities, facilities of the state bodies, public organisation, private property;

g) protection of citizens against an attack of dangerous animals;

h) submission of an alarm signal or a call of auxiliary force;

i) damage of a vehicle with the purpose to stop it, if actions of the driver create real threat to the health and life of people, and the driver does not submit to the numerous requirement of the employee of the State Security Service to stop a vehicle.

5. A verbal warning shall precede the use of firearms. It is possible to make a precautionary shot.

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6. Use of firearms without warning shall be admitted at:
  - a) sudden armed attack; attack with use of military equipment, transport or mechanical means of any kind;
  - b) runaway of the arrested or detained person with use of transport;
  - c) showing armed resistance during detention or arrest;
  - d) the armed runaway of detained or arrested person.
7. It shall be forbidden to use fire-arms in such places, where there is the possibility of causing harm to other persons, in inflammable or explosive places, or in the presence of persons having obvious signs of pregnancy, infancy, physical inability, an old age, except for those cases, when they participate in armed or group attack, or are showing resistance to the employee of the State Security Service.
8. Upon the use of firearms, the employee of the State Security Service shall be obliged to take all measures to ensure the safety of other persons and to render immediate medical assistance to the injured.
9. The employee of the State Security Service shall be obliged to immediately inform his supervisor or public prosecutor on the use of firearms.
10. The list of service regular firearms and ammunition being at the disposal of the employee of the State Security Service shall be approved by the President of Georgia.
11. It shall be forbidden to use such types of firearms and ammunition, which inflict an unjustified risk and are forbidden by the international conventions and other international acts.

### **Article 12. Legal protection of the employees of the State Security Service**

1. The employee of the State Security Service upon performance of service duties is representative of authority and shall be under protection of the State.
2. Nobody shall have the right to intervene in a service activity of the employee of the State Security Service, except for those bodies or officials, the powers of which are envisaged by law.
3. Creation of obstacles to the employee of the State Security Service, insult of his honour and dignity, menace, resistance or encroachment on his life, health or property shall be punishable under the legislation of Georgia.
4. It is forbidden to present the employee of the State Security Service to the corresponding law enforcement bodies or to put him in administrative detention, to search his workplace, things, personal vehicle or other vehicle used by him, without the empowered representative of the corresponding establishment of the State Security Service. Cases of exception concern any person who has been overtaken at the scene of crime, of which the Ministry of State Security of Georgia shall be immediately notified.
5. The employee of the State Security Service shall be guided by law. In cases of an obviously illegal order or instruction, the employee of the State Security Service shall be obliged to take measures for fulfilment of the law.
6. The employee of the State Security Service shall have the right to apply directly to the court for protection of his rights and freedoms.

### **Article 13. Social protection of the employee of the State Security Service**

1. Social protection of the employee of the State Security Service shall be provided by the state.
2. The employee of the State Security Service shall be subject to obligatory state insurance.
3. Damage caused to the employee of the State Security Service during performance of official duties shall

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be completely compensated. The compensation shall come from the state budget of Georgia. An employee of the State Security Service who has been injured or disabled during the performance of his official duties, shall be paid (from the State budget) a monthly indemnification as a difference between monthly average wages on the last post and the appointed pension. In addition, there is also a lump sum as a monetary contentment for five years.

4. In case of death of the employee of the State Security Service during performance of his official duties and in case of death within one year after his discharging from work due to injury or disability, his family, or, persons under his care, shall be paid a lump sum equating to 10 (ten) years of work and shall be given privileges stipulated by the legislation of Georgia.

5. The State shall provide the employee of the State Security Service with an apartment. The order and conditions of providing the employee an apartment shall be determined by law.

6. The State shall provide the employee of the State Security Service and members of his family with health services. The order and conditions of health services shall be established by the legislation.

7. If the legislation of Georgia does not envisage otherwise, the employee of the State Security Service, within the limits allocated from the State budget, shall have the right once a year to use state transport (except for a taxi) free of charge to travel within the territory of Georgia with the members of his family.

8. If the legislation of Georgia does not envisage otherwise, the employee of the State Security Service within the limits allocated from the state budget, shall have the right to use all types of city, suburban and local state transport (except for a taxi).

9. The employee of the State Security Service within the limits allocated from the state budget, on his permanent place of residence shall be provided with telephone in the order and terms established by the legislation of Georgia.

10. If the legislation does not establish otherwise, the employee of the State Security Service within the limits allocated from the state budget, shall have the right to use the state departmental summer residences, rest houses and services of medical and sanitary institutions.

11. The employee of the State Security Service shall have the right, in the order established by the legislation, to receive a plot of land and to have subsidiary farmland.

12. According to the legislation of Georgia, within the limits of means allocated from the state budget, additional measures and privileges on social protection not stipulated by this Law may be established for the employee of the State Security Service.

### **Article 14. The rights and duties of persons rendering assistance to the State Security Service**

1. With the aim of protection of State security, the person shall have the right to cooperate voluntarily and to render assistance to the State Security Service.

2. The person rendering assistance to the State Security Service shall have the right:

- a) to conclude a contract with the State Security Service on a confidential basis;
- b) to receive from the employees of the State Security Service an explanation of his tasks, rights and duties;
- c) with a view of conspiracy to use ciphered documents certifying the person;
- d) to receive compensation according to the cases stipulated by the contract, and also compensation for harm or damage caused to his health or property at rendering assistance for the State Security Service.

3. Person co-operating with the State Security Service on the basis of a special contract shall be obliged:



- a) to fulfil works of the State Security Service for solution of the posed tasks;
- b) to observe conditions of contract with the State Security Service;
- c) to not give intentionally false or slanderous information to the State Security Service.

4. In cases where a person rendering assistance to the State Security Service, has given intentionally false and slanderous information to the Service or disclosed information protected by law, which became known to him during co-operation with the State Security Service, shall bear the responsibility according to the legislation of Georgia.

5. Protection of social rights of the person rendering assistance to the State Security Service shall be determined by the legislation of Georgia.

6. Person rendering assistance to the State Security Service may be enlisted in the State Security Service according to the legislation of Georgia and to the rules established in the Ministry of State Security.

#### **Article 15. Operative and technical means of the State Security Service**

1. The State Security Service in the framework of competence given by this Law and other laws shall create and use operative and technical means and ensures their protection.

2. Operative and technical means used by the State Security Service and the methods of its use shall not abuse the honour and dignity of the person or the fundamental human rights and freedoms recognised by the Constitution of Georgia and shall not threaten the life or health of a person, or damage the environment.

3. Use of operative and technical means shall be fulfilled according to the legislation of Georgia.

#### **Article 16. Informational maintenance of the State Security Service**

1. Informational maintenance of the State Security Service shall be ensured by creation and use of the informational systems.

2. Grounds and order of the registration of data on law infringements directed against the security of Georgia, activity of the special services and organisation of foreign states shall be determined by the legislation of Georgia.

3. Grounds and order of admission of a citizen to the protected by law data of the informational systems of the State Security Service shall be determined by the legislation of Georgia.

#### **Article 17. Material and technical maintenance of the State Security Service**

1. Funding of the State Security Service shall be carried out from the state budget of Georgia.

2. Material and technical maintenance of the State Security Service shall be carried out at the expense of the centralised resources of Georgia.

3. The plot of land, buildings, constructions, equipment being at disposal of the State Security Service, enterprises and property acquired or created at the expenses of the state budget of Georgia or other means, shall be the property of the state.

### **Chapter IV. - The control and supervision over activity of the State Security Service**

#### **Article 18. The Parliamentary control**

1. The Parliamentary control over the State Security Service shall be carried out by the Committee on Defence and Security of the Parliament of Georgia. Forms of parliamentary control shall be defined by the

legislation of Georgia.

2. Members of the Parliament of Georgia may receive from the State Security Service the information protected by law according to legislation of Georgia.

**Article 19. The Presidential and Governmental control**

1. The Ministry of State Security of Georgia shall be accountable to the President and to the Government of Georgia.

2. The state programs on the activities of the State Security Service shall be approved by the President of Georgia (21.05.2004 N 63-I).

**Article 20. The Judicial control**

Fulfilment of investigation and judicial procedures limiting individual rights and freedoms, determined by the Constitution of Georgia, shall be admitted by the motivated decision of the court in the order established by law.

**Article 21. Supervision of the Chamber of Control of Georgia**

Supervision over using and expenditures by the State Security Service of means, allocated from the state budget, and other material assets of the state shall be carried out by the Chamber of Control of Georgia.

**Article 22. Public Prosecutor's supervision**

1. Supervision over exact and uniform performance of law in the activities of the State Security Service, as an investigation body, shall be carried out by the General Public Prosecutor of Georgia and the public prosecutors subordinated to him in the order established by law.

2. Data on persons, who are rendering or rendered confidential assistance to the State Security Service, are co-operating or co-operated with it, and also methods, tactics and the organisation of getting the information of operative - investigative character shall not be the subject to the public prosecutor's supervision.

**Chapter V. - Transitive and final provisions**

**Article 23. Transitive provision**

Within a one month term of putting this Law into force, to bring the Provision of the Ministry of State Security into conformity with this Law.

**Article 24. Enforcement of the Law**

1. This Law shall enter into force upon its promulgation.

2. After enforcement of this Law the following acts shall be considered as invalid:

a) Resolution of the State Council of Georgia of August 31, 1992 "On Approval of Temporary Provision on the Information and Intelligence Service of Georgia" (the Collection of Normative Acts of the State Council of Georgia, 1995, volume II, art. 153);

b) authorised by the Resolution of the State Council of Georgia on August 31, 1992 "Temporary Provision on the Information and Intelligence Service of Georgia" (the Collection of Normative Acts of the State Council of Georgia, 1995, volume II, art. 154).

President of Georgia  
Tbilisi  
February 18, 1998  
No. 1227

Eduard Shevardnadze