

LAW OF GEORGIA
ON COUNTER-INTELLIGENCE ACTIVITIES

Chapter I - General Provisions

Article 1 - Concept of counter-intelligence activities

Counter-intelligence activities are special kinds of activities in the field of state security, the objectives of which are to detect and prevent threats directed against the state interests of Georgia and arising from the intelligence and/or terrorist activities of special services and organisations, groups of people and individuals of foreign states.

Article 2 - Definition of terms used in this Law

The terms used herein have the following meanings for the purposes of this Law:

- a) counter-intelligence activities - a system of special non-law enforcement (operational, operational and technical) measures implemented by the special services of Georgia, which are aimed at detecting and preventing the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states;
- b) operational activities - part of counter-intelligence activities, which includes special measures carried out in overt or covert forms and through overt and covert methods aimed at obtaining information about the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states;
- c) operational and technical activities - part of counter-intelligence activities, which includes special measures carried out using special technical means in overt or covert forms and through overt and covert methods aimed at obtaining information about the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states;
- d) operational information - data obtained as a result of operational and/or operational and technical activities;
- e) counter-intelligence information - data that reflect the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states and circumstances associated with these activities;
- f) special services - special Georgian authorities which, within their competence, carry out intelligence and/or counter-intelligence (operational, operational and technical, and other) activities in order to ensure state security;
- g) special services of foreign states – the special authorities of foreign states which carry out intelligence activities against the state interests of Georgia;
- h) intelligence activities of special services of foreign states - the activities of the special services, organisations, groups of people and individuals of foreign states, directed against the state interests of Georgia, the objectives of which are to:
 - h.a) obtain intelligence information;
 - h.b) influence the Georgian authorities and their policies in accordance with the interests of their countries;
- i) operative records - operative records managed by special services for studying and documenting the intelligence and/or terrorist activities of natural and/or legal persons and related activities and circumstances, where operational materials obtained in their regard are systematised and concentrated;
- j) Georgian person:
 - j.a) a citizen of Georgia;
 - j.b) a legal entity, which is established by citizens of Georgia and registered in accordance with the legislation of Georgia;
- k) representation office of a foreign state - any legal entity, other than that provided for in sub-paragraph (j.b) of this article;
- l) representative of a foreign state - any natural person who is not a citizen of Georgia;
- m) electronic surveillance – the covert tapping and recording of telephone conversations, the removal and recording of information from communication channels (by connecting to the means of communications, computer networks, communications lines and station equipment) using electronic, mechanical or other technical means;
- n) arranged electronic surveillance - electronic surveillance carried out with the written consent of one of the parties participating in telephone or another type of electronic communication.

Article 3 - Objectives of counter-intelligence activities

The main objective of counter-intelligence activities is to ensure state security by:



- a) obtaining, analytically processing and using information about the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states;
- b) detecting and preventing the specific intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states, and circumstances associated with the implementation of those activities.

Article 4 - Legal grounds for counter-intelligence activities

The legal grounds for counter-intelligence activities are the Constitution of Georgia, the international treaties and agreements of Georgia, this Law, and other normative acts of Georgia.

Article 5 - Principles of carrying out counter-intelligence activities

1. The principles of carrying out counter-intelligence activities are:

- a) legality;
- b) strict protection of human rights and freedoms and the rights of legal persons, and respect for human dignity;
- c) compliance with the rules of secrecy;
- d) centralisation and unity of the management of counter-intelligence activities.

2. Counter-intelligence activities may be carried out only for the purpose of obtaining information related to the intelligence and terrorist activities of special services, organisations, groups and individuals of foreign states, and they shall not serve as grounds for criminal prosecution, except as provided for by the legislation of Georgia.

3. Information obtained as a result of counter-intelligence activities shall not constitute grounds for restricting the rights of Georgian persons.

Article 6 - Counter-intelligence activities and publicity

1. Counter-intelligence activities shall be secret. Documents, materials and other data reflecting these activities constitute a state secret.

2. Documents, materials and other data obtained as a result of operational, and operational and technical measures in the course of counter-intelligence activities, may not be used for law enforcement purposes, except as provided for by the legislation of Georgia.

3. The procedure and conditions for classifying documents, materials and other data or their parts related to counter-intelligence activities, shall be determined in accordance with the Law of Georgia on State Secrets.

Chapter II - System and Organisation of Counter-intelligence Activities

Article 7 - Special services carrying out counter-intelligence activities

1. Counter-intelligence activities shall be carried out by special services within the competences granted under the legislation of Georgia.

2. The organisation of unified counter-intelligence activities in the country and the coordination of special services shall be assigned to a special service called the Counter Intelligence Department of the State Security Service of Georgia.

3. Special services, as well as other state authorities, shall be required to submit any data associated with the interests of ensuring state security to a special coordinating service referred to in paragraph 2 of this Article.

4. The Government of Georgia shall determine:

- a) the procedure for organising unified counter-intelligence activities and coordinating the activities of special services in the country;
- b) the procedure for exchanging information between special services, as well as between other state authorities, carrying out counter-intelligence activities in the interests of state security, and for maintaining information banks, by which a complete list of data provided for by paragraph 3 of this article and the rules for their submission shall also be determined.

Law of Georgia No 1158 of 20 September 2013 - website, 8.10.2013

Law of Georgia No 3935 of 8 July 2015 - website, 15.7.2015

Article 8 - Powers of special services



1. The powers of special services shall be defined by this Law and other normative acts.
2. Special services shall:
 - a) within their competences, carry out all necessary activities permitted by the legislation of Georgia to fulfil the tasks of counter-intelligence activities;
 - b) strictly protect human rights and freedoms and the rights of legal persons, and respect human dignity;
 - c) adhere to the rules of secrecy in carrying out counter-intelligence activities.
3. Special services have the right to:
 - a) carry out activities provided for by this Law in overt and/or covert forms;
 - b) establish relationships with citizens on a gratuitous or a non-gratuitous basis, who voluntarily agree to assist special services on a confidential basis;
 - c) establish and use information systems to ensure the fulfilment of the tasks of counter-intelligence activities;
 - d) during the implementation of special measures of counter-intelligence activities, use the office buildings and property of enterprises, institutions, organisations and military bases, as well as residential and non-residential premises, vehicles and other property of private persons, on the basis of a contract or verbal agreement;
 - e) use documents for the purposes of secrecy, which conceal the identity of officials of special services, and the ownership of premises and vehicles of units and organisations, as well as the identity of citizens cooperating with these services on a confidential basis.

Article 9 - Special measures of counter-intelligence activities

1. The special measures of counter-intelligence activities are:
 - a) operational measures - part of operational activities. These measures are implemented in overt or covert forms and through overt and covert methods and are aimed at obtaining information about the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states. The types of operational measures shall be determined by the legal acts of special services;
 - b) operational and technical measures - part of operational and technical activities. These measures are implemented using technical means to obtain information about the intelligence and/or terrorist activities of special services, organisations, groups of people and individuals of foreign states.
2. Operational and technical measures are:
 - a) covert video and audio recording;
 - b) covert filming and photography;
 - c) use of television cameras and other types of electronic equipment;
 - d) electronic surveillance;
 - e) control of correspondence.

Article 10 - Grounds for implementing special measures of counter-intelligence activities

The grounds for implementing the special measures of counter-intelligence activities shall be:

- a) data on facts and phenomena (or their signs) that pose or may pose a threat to the state security of Georgia;
- b) data on representatives or representation offices of foreign countries, which are related to intelligence and/or terrorist activities and to the preparation or implementation of acts directed against the interests of the state security of Georgia, or the grounds for such assumption;
- c) data on Georgian persons, indicating their relation to the intelligence and/or terrorist activities of special services of foreign states.

Chapter III - Procedures for the Implementation of Special Measures of Counter-intelligence Activities

Article 11 - General procedure for the implementation of counter-intelligence activities

1. In cases permitted by the legislation of Georgia, special measures of counter-intelligence activities may be implemented in the territory of Georgia against individuals, irrespective of their citizenship, nationality, gender, occupational status, place of residence, membership in social associations, religious beliefs and political views.
2. Operational and technical measures are implemented within counter-intelligence activities and, generally, do not require a judicial order to be issued, except for measures provided for by Article 9(2)(d) and (e) of this Law, which may be implemented only with a judicial order.



Article 12 - Electronic surveillance

1. The heads of special services shall file a petition with the Supreme Court of Georgia for the use of electronic surveillance.
2. A petition shall be approved by a prosecutor ('prosecutor') selected and specially authorised by the Chief Prosecutor of Georgia, which shall have the right to request additional information in regard to the petition within the limits of legislation.
3. A petition for authorising electronic surveillance shall include:
 - a) reasoned grounds for electronic surveillance in accordance with Article 10 of this Law;
 - b) detailed information about the object of electronic surveillance;
 - c) a description of facts and circumstances which prove that:
 - c.a) electronic surveillance will focus only on the extraction of information disseminated via communication lines used or controlled exclusively by the object of electronic surveillance;
 - c.b) each item of equipment or place subject to electronic surveillance is used or will be used by the object of electronic surveillance;
 - c.c) the purpose of electronic surveillance is to obtain counter-intelligence information;
 - c.d) such counter-intelligence information would be virtually impossible to obtain without electronic surveillance.

Law of Georgia No 484 of 1 November 2008 - LHG I, No 30, 7.11.2008, Art. 441

Article 13 - Judicial order

1. A judge duly authorised by the Supreme Court of Georgia ('judge') shall have the right to issue orders authorising electronic surveillance if there are objective grounds and if the requirements of Articles 10 and 12 of this Law are met.
2. A judge shall review petitions for authorising electronic surveillance at closed hearings not later than 24 hours after they are received, with the participation of one of the heads of special services and a prosecutor. A judge shall make one of the following decisions, which shall be final and may not be appealed:
 - a) issue an order on implementing operational and technical measures;
 - b) dismiss the petition.
3. A judge may require the submission of information necessary to resolve the issue.
4. By an order issued in accordance with this article, electronic surveillance shall be allowed for the period necessary to achieve its objectives, but not for a period longer than 90 days.
5. The period referred to in paragraph 4 of this article may be extended on the basis of a reasoned petition in accordance with the procedure and on the grounds determined in the initial order, but not for longer than a period of 12 months for each petition for extension.
6. A judicial order authorising electronic surveillance under this article shall oblige an electronic communications operator (or a telephone company) to:
 - a) facilitate electronic surveillance;
 - b) maintain confidentiality of all data related to electronic surveillance.
7. The regime of secrecy shall apply to documents related to the issuance of authorisation for electronic surveillance (petitions, orders, etc.)

Article 14 - Right to carry out electronic surveillance without a judicial order

1. If the head of a special service determines that there is an urgent need for the use of electronic surveillance to obtain counter-intelligence information before a judicial order is issued, and there are objective grounds for obtaining a judicial order necessary for such surveillance, he/she shall have the right to make a decision on carrying out electronic surveillance, for the purposes of counter-intelligence activities, in the cases of urgent need provided for by legislation, irrespective of the provisions of Articles 11 and 13 of this Law.
2. The head of a special service shall immediately inform a judge about the carrying out of electronic surveillance and shall apply with a respective petition within 24 hours after starting to use electronic surveillance.
3. If the judge dismisses the petition, electronic surveillance shall be terminated immediately.

Article 15 - Arranged electronic surveillance



1. A special service may carry out electronic surveillance, aimed at obtaining counter-intelligence information, with the written consent of one of the parties to the electronic communications in question,.

2. The period of such surveillance shall not be longer than 90 days. This period shall be extended through the same procedure as in the case of obtaining initial authorisation from a judge.

Article 16 - Surveillance of correspondence

The head of a special service shall apply to a judge for an order to access correspondence, through the same procedure as in the case of electronic surveillance.

Article 17 - Use of television cameras and other types of electronic equipment

For the purposes of counter-intelligence activities, the heads of special services may authorise the use of television cameras and other types of electronic equipment in places of public gathering.

Article 18 - Covert participation

For the purposes of counter-intelligence activities, the heads of special services may authorise covert participation in the activities of organisations if:

a) there are reasonable grounds to assume that the organisation is participating in intelligence and/or terrorist activities directed against Georgia on behalf of or in the interests of a representation office of a foreign state;

b) covert participation is important for the effective control of the activities of this organisation.

Article 19 - Creation of clandestine organisations

For the purposes of counter-intelligence activities, the head of a special service may authorise the creation of a clandestine organisation within the limits of legislation.

Chapter IV - Legal and Social Protection of Employees of Special Services and of Citizens Assisting these Services

Article 20 - Guarantees for legal and social protection of employees of special services

1. Employees of special services are covered by the guarantees of legal and social protection of the service in which they are serving.

2. No person, other than persons duly authorised by law, may interfere with the lawful actions of officials and special services carrying out counter-intelligence activities.

3. Officials of state institutions and military units shall, within their competences, assist special services in the implementation of special measures of counter-intelligence activities.

4. Complying with the legal requests of special services shall be mandatory for all natural and legal persons.

Article 21 - Assistance of special services by citizens

1. Individuals may be involved in the preparation or implementation of special measures of counter-intelligence activities with their consent. These persons shall keep confidential all information that becomes known to them during the preparation or implementation of these measures, and shall not knowingly present false information to special services, and shall not use this relationship for their personal interests.

2. Special services may enter into contracts only with capable persons of full age, irrespective of their citizenship, nationality, gender, social and occupational status, language, education, membership in public associations, political views and religious beliefs.

3. Special services may not contract members of the Parliament of Georgia, members of the Constitutional and the Supreme Courts of Georgia, the Public Defender of Georgia, judges, prosecutors, lawyers, investigators and other officials under Article 63 and 64 of the Constitution of Georgia for the use of their confidential assistance.

Article 22 - Guarantees for legal and social protection of citizens assisting special services

1. Persons assisting special services shall be protected by the State.



2. If persons assisting special services, their family members and relatives, face a real threat of illegal encroachments on their lives, health or property as a result of assisting special services, these services shall take necessary measures to prevent such threats.

3. Data concerning persons who cooperate or have cooperated with special services on a confidential basis shall constitute a state secret. Such data may be disclosed only with the written consent of these persons or their heirs, or in cases expressly provided for by law.

4. Persons who cooperate with special services shall be entitled to receive remuneration.

5. Persons who have agreed to cooperate with special services on the basis of a contract shall be provided with a guarantee by the State for the fulfilment of obligations under the contract.

6. If necessary, in order to ensure the safety of persons who cooperate with special services, as well as their family members and relatives, special protection measures shall be implemented in accordance with procedures established by the legislation of Georgia.

Article 23 - Financial support of counter-intelligence activities

For counter-intelligence activities, special services shall be allocated funds from the State Budget of Georgia, which shall be spent in accordance with procedures established by the legislation of Georgia.

Chapter V - Control of Counter-intelligence Activities

Article 24 - Parliamentary control

1. The forms of parliamentary control of counter-intelligence activities shall be determined by the legislation of Georgia.

2. Members of the Parliament of Georgia may receive information on counter-intelligence activities, which is protected by law, in accordance with procedures established by the legislation of Georgia.

Article 25 - Judicial control

In the process of counter-intelligence activities, operational and technical measures related to the restriction of the constitutional rights and freedoms of natural and legal persons, shall be implemented only with a court decision and in accordance with procedures established by legislation.

Article 26 - Governmental control

The head of a service coordinating counter-intelligence activities shall submit a report to the President of Georgia and the Prime Minister of Georgia at least once a year.

Law of Georgia No 1158 of 20 September 2013 - website, 8.10.2013

Article 27 - Prosecutorial supervision

The counter-intelligence activities of special services shall not be subject to prosecutorial supervision. Operational and technical measures related to the restriction of the constitutional rights and freedoms of natural persons and legal entities, shall be agreed with a specially authorised prosecutor appointed by the Chief Prosecutor of Georgia.

Law of Georgia No 484 of 1 November 2008 - LHG I, No 30, 7.11.2008, Art. 441

Article 28 - Budgetary control

The use and spending of funds allocated for the counter-intelligence activities of special services from the State Budget of Georgia and other material assets of the State shall be supervised by a special group of the State Audit Office of Georgia, the members of which shall have access to state secrets.

Law of Georgia No 6550 of 22 June 2012 - website, 29.6.2012

Article 29 - Transitional provisions

1. The Government of Georgia shall adopt the following ordinances before 1 January 2014:

a) on the procedure for organising unified counter-intelligence activities and for coordinating activities of special services in the country;



b) on the procedure for exchanging information between special services, as well as between other state authorities, and for carrying out counter-intelligence activities in the interests of state security, and for maintaining information banks.

2. Until the moment when the President of Georgia elected as a result of the upcoming presidential elections in October 2013 takes an oath, subordinate normative acts and/or their parts issued on the basis of this Law, which contravene this Law, shall lose their validity upon the entry into force of a respective normative act under paragraph 1 of this article.

Law of Georgia No 1158 of 20 September 2013 - website, 8.10.2013

Article 30 - Final provisions

This Law shall enter into force upon its promulgation.

President of Georgia

Mikheil Saakashvili

Tbilisi

11 November 2005

No 2097-IIS

