

**LAW OF GEORGIA  
ON THE SPECIAL INVESTIGATION SERVICE**

**Chapter I – General Provisions**

**Article 1 – Scope of the Law**

This Law determines the status of the State Inspector Service, the principles of its activities, the powers of the Inspector Service, procedures for election and early termination of the powers of the State Inspector, as well as other issues related to the implementation of the powers of the Inspector Service.

**Article 2 – Fields of activity of the State Inspector Service**

On the basis of this Law the State Inspector Service shall be established, which is an independent state body. The purpose of the State Inspector Service is to:

- a) control the legality of personal data processing;
- b) control the secret investigative actions and activities implemented in the central bank of electronic communication identification data;
- c) impartial and effective investigation of crimes determined by Article 19(1) of this Law.

**Article 3 – Definitions of terms**

1. For the purposes of this Law, the terms used herein shall have the following meanings:

- a) State Inspector – the head of the State Inspector Service, who is elected to the position in accordance with the procedure prescribed by this Law and carries out the powers granted to him by the same Law;
  - b) secret investigative action – an investigative action provided for by Article 143<sup>1</sup>(1) of the Criminal Procedure Code of Georgia;
  - c) Legal Entity under Public Law called the Operative-Technical Agency of Georgia (the ‘Agency’) – a body with an exclusive authority to carry out secret investigative actions provided for by Article 143<sup>1</sup>(1)(a-d) of the Criminal Procedure Code of Georgia;
  - d) electronic control system – the system provided for by Article 2(i) of the Law of Georgia on a Legal Entity under Public Law called the Operative-Technical Agency of Georgia;
  - e) electronic control system of a central bank of electronic communication identification data – the system provided for by Article 2 (k) of the law of Georgia on a Legal Entity under Public Law – the Operative-Technical Agency of Georgia;
  - f) special electronic control system for determining real-time geolocation – the system provided for by Article 2(n) of the Law of Georgia on a Legal Entity under Public Law called the Operative-Technical Agency of Georgia;
  - g) special electronic control system – the system provided for by Article 2(j) of the Law of Georgia on a Legal Entity under Public Law called the Operative-Technical Agency of Georgia;
  - h) representative of the law enforcement body – an employee of the Prosecutor’s Office of Georgia (except for the Chief Prosecutor of Georgia and the prosecutor of the structural unit of the Procedural Supervision of Investigation in the Investigation Division of State Inspector Service of General Prosecutor's office), an employee of the Ministry of Internal Affairs of Georgia (except for the Minister of Internal Affairs of Georgia), employee of the State Security Service of Georgia (except for the head of the State Security Service of Georgia), an employee of the special law enforcement structural division of the Defence Forces of Georgia, an employee of the investigative division of the Ministry of Justice of Georgia, an employee of the special division of the Special Penitentiary Service – the State Sub-agency under the Ministry of Justice of Georgia, an employee of the investigation service of the Ministry of Finance of Georgia;
  - I) officer or a person equal to him/her – the subject of the crime provided for by Chapter XXXIX of the Criminal Code of Georgia (except for the State Inspector, the deputy State Inspector, the investigator and servant of the State Inspector Service);
  - j) person under an effective control of the State – a person, who is arrested or whose liberty is restricted differently under the legislation of Georgia, also a person, whose freedom of movement and the right to leave the location according to his/her own will is restricted actually by the officer or a person equal to him/her in status, regardless of whether the person is on the territory of Georgia or outside of it;
  - k) employee of the investigation division of the State Inspector Service/employee of the investigation division – an employee of a structural unit of the State Inspector Service, which directly performs functions provided for by the criminal procedure legislation of Georgia and/or conducts operational and investigative activities;
  - l) investigator of the State Inspector Service/investigator – the head of the investigative division of the State Inspector Service, his/her deputy, a head of a sub-division or a territorial agency within that structural unit, his/her deputy, a senior investigator for especially important cases, an investigator for especially important cases, and an intern investigator .
2. The terms used in Chapter III of this Law have the meanings provided for by the Law of Georgia on Personal Data Protection.

*Law of Georgia No 3802 of 30 November 2018 – website, 13.12.2018*



## **Chapter II – Principles of the Activity of the State Inspector Service, the Powers of the State Inspector, his/her Election, the Inviolability, Incompatibility of Offices and Early Termination of Powers**

### **Article 4 – Principles of the activity of the State Inspector Service**

1. In its activity, the State Inspector Service shall be governed by the Constitution of Georgia, treaties of Georgia, universally recognised principles and norms of international law, this Law, the Criminal Code of Georgia, the Criminal Procedure Code of Georgia, the Law of Georgia on Operational and Investigative Activities, the Law of Georgia on Personal Data Protection, the acts of the State Inspector Service and other legal acts.

2. Principles of the activity of the State Inspector Service are:

- a) legality;
- b) protection of human rights and freedoms;
- c) independence and political neutrality;
- d) the objectivity and impartiality;
- e) professionalism;
- f) protection of secrecy and confidentiality.

### **Article 5 – Powers of the State Inspector**

1. The State Inspector shall:

- a) manage the State Inspector Service and make decisions on issues related to the activity of this service;
- b) define the structure of the State Inspector Service, the powers of the structural units and employees;
- c) define the staff list of the State Inspector Service, remuneration procedure and amounts in accordance with the legislation of Georgia;
- d) define the functions and duties of the first deputy and deputies of the State Inspector and carry out the delegation of powers to them;
- e) appoint and dismiss the employees of the State Inspector Service;
- f) award a special state rank (the 'special rank') to a deputy of the State Inspector who supervises the activities of the Investigative Division of the State Inspector Service (the 'relevant deputy State Inspector'), to employees of a structural unit of the State Inspector Service performing official inspection and to employees of the Investigative Division of the State Inspector Service (except for intern investigators), and reduce them in a special rank, under the procedure established by the legislation of Georgia;
- g) represent the State Inspector Service in relation with state bodies, international and other organisations;
- h) ensure the protection and intended use of state property transferred to the State Inspector Service;
- i) carry out powers provided for by this Law, by the statute of the State Inspector Service and other powers provided for by the legislation of Georgia.

2. The State Inspector within his/her powers shall issue subordinate normative act – an order on the review of notifications, permits and applications, on the method and implementation of examination (inspection), also on the issues related to the investigation of crimes subordinated to the State Inspector and other issues related to the activity of the State Inspector Service.

3. The State inspector shall, on the basis of the statute of the State Inspector Service and other relevant normative acts and for their implementation, issue individual legal acts, including decisions, orders and instructions.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

### **Article 6 – Election of the State Inspector**

1. The citizen of Georgia with no previous record of conviction, who has higher legal education and at least 5 years of the experience of working in the system of the judicial or law enforcement bodies or in the field of human rights, and possesses high professional and moral reputation, may be elected as the State Inspector

2. The competition commission for the election of the State Inspector shall be established by the order of the Prime Minister of Georgia. The members of the competition commission shall be:

- a) a representative of the Government of Georgia;
- b) a chairperson of the Human Rights and Civil Integration Committee of the Parliament of Georgia;
- c) a chairperson of the Legal Issues Committee of the Parliament of Georgia;
- d) deputy chairperson of the Supreme Court of Georgia;
- e) the first deputy or Deputy Chief Prosecutor of Georgia;
- f) the Public Defender of Georgia or the representative of the Public Defender of Georgia;
- g) a person with relevant experience, selected from the members of non-entrepreneurial (non-commercial) legal entity by the Public Defender of Georgia through the open competition procedure, who has the experience of working in the field of human rights and/or personal data protection.

3. Not earlier than 11 weeks and not later than 10 weeks before the expiration of powers of the State Inspector, and in the



case of the early termination of his/her powers, within 1 week after the termination of powers, the agencies and institutions specified in paragraph 2 of this article shall notify the Prime Minister of Georgia about the identity of the members of the competition commission for the election of the State Inspector. The Prime Minister of Georgia shall convene the first session of the commission within 7 days after the nomination of all members of the competition commission. The competition commission shall, at the first session, by majority of votes elect the chairperson of the commission from its members and within one-week time frame approve the statute of the competition commission for the election of the State Inspector, by which the procedure for the activity of the commission and the time frame and the procedure of nominating candidates for the State Inspector is determined.

4. The competition commission for the election of the State Inspector shall, by the majority of votes, elect not less than 2 and not more than 5 candidates and introduce them to the Prime Minister of Georgia. Taking into consideration the number of candidates, the nomination of the candidates of different sexes shall be ensured to the greatest extent.

5. The Prime Minister of Georgia shall nominate 2 candidates to be elected to the position of the State Inspector to the Parliament of Georgia within 10 days.

6. The Parliament of Georgia shall, not later than 14 days and under the procedure established by the rules of procedure of the Parliament of Georgia, elect the State Inspector. If this time limit in whole or in part coincide with the period between the sessions of the Parliament of Georgia, the time limit set by this paragraph for the election of the State Inspector shall be extended for a relevant time. Voting for every candidate shall be conducted separately. The candidate who receives the most votes but not less than the votes of the majority of the total composition of the Parliament of Georgia, will be considered as elected. If none of the candidates receives enough votes to be elected as the State Inspector, the Prime Minister of Georgia shall announce a new competition within the time limit of 2 weeks.

7. The term of office of the State Inspector shall be 6 years. The same person shall not be elected as the State Inspector for two consecutive terms of office.

8. The State Inspector shall be elected not earlier than 60 days before the expiration of the term of office of the current State Inspector and not later than 30 days after the expiration of this term.

9. The authority of the newly elected State Inspector shall commence from the day following the expiry of the term of the office of the current State Inspector if he/she is elected before the expiration of this term, or after the day of the election if he/she is elected after the expiration of this term, or in the case of the early termination of the powers of the previous State Inspector, except for the case provided for by Article 8(3) of this Law.

10. The powers of the State Inspector shall be terminated upon the expiry of 6 years from the date of his/her election or in the case of an early termination of powers.

11. The state inspector shall have the first deputy and two deputies whom he/she appoints by an order. Upon the termination of the powers of the State Inspector, the powers of the first deputy and the deputies of the State Inspector will be terminated, as soon as the new State Inspector shall start exercising the powers in accordance with the procedure established by this Law.

11<sup>1</sup>. The relevant Deputy State Inspector shall coordinate the activities of the Investigative Division of the State Inspector Service and shall, within the scope of his/her competence, exercise official supervision over the activities of the Investigative Division employees.

12. In the case of the absence of the State Inspector, non-performance of powers by him/her, in the case of the suspension or termination of his/her powers, the powers of the State Inspector shall be exercised by the first deputy State Inspector and in the case of the absence of the first deputy – one of the deputies of the State Inspector. When exercising the powers of the State Inspector, the first deputy and deputy of the State inspector shall enjoy the powers and legal guarantees granted to the State Inspector.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

## **Article 7 – Inviolability of the State Inspector**

1. State Inspector is inviolable. It shall be inadmissible to institute criminal proceedings against the State Inspector, detain or arrest him/her, search his/her residence, workplace, car, or perform personal search without the consent of the Parliament of Georgia. An exceptional case shall be catching him/her *in flagrante delicto* which shall be notified immediately to the Parliament of Georgia. If the Parliament of Georgia shall not give consent within 48 hours, the arrested or detained State Inspector must be immediately released.

2. If the Parliament of Georgia consents to have arrested or detained the State Inspector, the powers of the State Inspector shall be suspended with the resolution of the Parliament of Georgia until a resolution/ruling to terminate criminal proceedings is made or a court judgement enters into legal force.

3. The personal security of the State Inspector shall be ensured by relevant state bodies.

## **Article 8 – Incompatibility of duties of the State Inspector**

1. Duties of the Inspector shall be incompatible with membership in state and local self-government representative bodies of Georgia, any post within state service and public service and other remunerative work, except for scientific and pedagogic activity or activity in the field of art. The State Inspector shall not be engaged in entrepreneurial activities, directly exercising the powers of the permanent manager of the entity of an entrepreneurial activity, a member of a



supervisory, control, revision or consultative body. The State Inspector shall not be a member of any political party or participate in political activity.

2. The State Inspector is prohibited to participate in meetings and manifestations supporting or opposing the political union of citizens.

3. The person elected as the State Inspector shall be obliged, to discontinue activities incompatible with his/her duties or resign from a position incompatible with his/her status within 10 days after his/her election. Until the person elected as the State Inspector terminates an activity incompatible with his/her duties or resigns from an incompatible position, he/she shall not be authorised to start exercising the powers of the State Inspector. If the State Inspector fails to meet this requirement established by this paragraph, his/her powers shall be early terminated.

#### **Article 9 – Early termination of the powers of the State Inspector**

1. Powers of the State Inspector shall be terminated early if:

- a) he/she lost the citizenship of Georgia;
- b) he/she fails to perform his/her duties for four consecutive months because of health status.
- c) a court judgement of conviction against him/her enters into force;
- d) the court recognises him/her as a beneficiary of support (unless otherwise determined under court decision), recognises him/her as missing or declares as dead;
- e) he/she has been holding a position incompatible with the status of the State Inspector, or is engaged in an activity incompatible with his/her status;
- f) he/she voluntarily resigns;
- g) he/she dies.

2. In cases provided for by the first paragraph of this article, the powers of the State Inspector shall be considered as terminated from the moment of the establishment of relevant circumstances, on which the chairperson of the Parliament of Georgia shall immediately report to the Parliament of Georgia. In this case the Parliament of Georgia shall terminate the powers of the State Inspector based on the receipt of the information of the chairperson of the Parliament of Georgia as a notice.

#### **Article 10 – Financial and organisational support of the State Inspector Service**

1. The structure of the State Inspector Service, the rules of activities and the distribution of powers among employees shall be established by the statute of the State Inspector Service, which is approved by the State Inspector.

2. Employees of a structural unit of the State Inspector Service performing official inspection and employees of the Investigation Division shall be public servants and the Law of Georgia on Public Service shall apply to them, unless otherwise determined by this Law and a normative act of the State Inspector issued on the basis of this Law. Other employees of the State Inspector Service shall be public servants and the Law of Georgia on Public Service shall apply to them under the established procedure. The procedure for serving as employees of a structural unit of the State Inspector Service performing official inspection and employees of the Investigation Division at the State Inspector Service shall be established by the State Inspector.

3. The State Inspector shall approve the Code of Ethics for the employees of the Investigation Division of the State Inspector Service. The violation of the Code of Ethics shall lead to the imposition of disciplinary liabilities on violators. Disciplinary proceedings against an employee of the Investigation Division of the State Inspector Service shall be carried out under the procedure established by the State Inspector.

4. Activities of the State Inspector Service shall be funded from the State Budget of Georgia. Allocations necessary for the activities of the State Inspector Service shall be determined in a separate code of the state budget of Georgia. The reduction of current expenditures designated for the State Inspector Service in the State Budget, compared with the budgetary funds of the previous year, may be allowed only with the prior consent of the State Inspector.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

#### **Article 11 – Independence of the State Inspector Service**

1. The State Inspector Service shall be independent in exercising his/her powers and shall not be subordinate to any official or body. Any type of influence on the servants and investigators of the State Inspector Service, or illegal interference with the activities of the State Inspector, shall be prohibited and is punishable by law.

2. For ensuring the independence of the State Inspector, the state shall be obliged to provide him/her with adequate working conditions.

3. The State Inspector shall have the right, in relation with the performance of the control functions of the control of legality of the personal data processing, conducting secret investigative actions and the activities implemented in the central bank of electronic communication identification data, to refuse to testify regarding any fact that was disclosed to him/her as the State Inspector. This right shall be reserved to the State Inspector even after the termination of powers.

#### **Article 12 – Annual report of the State Inspector Service**

1. The State Inspector shall, not later than March 31 of each year, submit a report to the Parliament of Georgia on the



situation with the respect to personal data protection in Georgia, conducting secret investigative actions and control of the activities performed in the central bank of electronic communication identification data, also on the state of the investigation of criminal cases under the State Inspector Service and the activities carried out by the State Inspector Service in the previous year in these directions.

2. Annual report of the State Inspector Service shall include: Information about the activities carried out in the field of personal data protection by the State Inspector Service during the reporting period; general assessments, conclusions and recommendations on the situation in the area of data protection in Georgia; the information on significant violations detected during the year and measures undertaken; general statistical information on the activities carried out in the field of control of the conduction of secret investigative activities; general information on the offences under the State Inspector Service; statistical data on the ongoing investigation in the field of its powers; general trends, assessments, conclusions and recommendations and other relevant issues. The annual report of the State Inspector Service shall not contain information on the issues related to the investigation of a particular criminal case and/or the particular circumstances of the case.

3. Once a year the State Inspector shall submit the report on the results of the control of the conducting of investigative actions provided for by Articles 136 to 138 and secret investigative actions provided for by Article 143<sup>1</sup> (1)(a) and (b) of the Criminal Procedure Code of Georgia to the parliamentary committee and trust group defined by the Bureau of the Parliament of Georgia under the procedure established by the rules of procedure of Parliament of Georgia.

4. The Parliament of Georgia may at any time invite by the majority of the total composition the State Inspector at the session and/or the Committee of the Parliament to present the information on the current activities of the State Inspector, which should not include information on the investigation of the particular criminal case and/or the issues related to the particular circumstances of the case.

5. Unless otherwise provided for by law, no one may request the State Inspector to submit a report on the investigation of a particular criminal case, or information, the disclosure of which may impede the investigation process.

6. The information on the activities implemented by the State Inspector Service, taking into consideration the restrictions established by this article shall be provided to the public through the website of the State Inspector Service.

### **Chapter III – Powers of the State Inspector Service in the Field of Personal Data Protection**

#### **Article 13 – Main areas of activity of the State Inspector Service in the field of personal data protection**

The legality of personal data processing in Georgia shall be monitored by the State Inspector Service. Main areas of activity of the State Inspector Service in this field shall be:

- a) rendering consultations on the issues related to personal data protection;
- b) reviewing applications related to personal data protection;
- c) examination (inspection) of lawfulness of personal data processing;

Providing information to the public about the situation in the area of personal data protection and significant developments in this respect in Georgia and awareness improvement.

#### **Article 14 – Reviewing applications of data subjects by the State Inspector Service**

1. The State Inspector Service shall be obliged to review the application of a data subject in relation to personal data processing and take measures provided for by the legislation of Georgia.

2. The State Inspector Service shall decide which measures shall be taken and notify about them the applicant, within 10 days after an application is received from a data subject.

3. The State Inspector Service shall have the right to conduct an inspection to examine and investigate circumstances related to the application of a data subject. Any data processor and/or authorised person shall be obliged to provide the State Inspector Service with appropriate information and/or documents if the State Inspector Service demands so.

4. The time limit for the State Inspector Service to review an application of a data subject shall not exceed two months. Based on a substantiated decision of the State Inspector Service, the time limit for reviewing an application may be extended by not more than one month.

5. When reviewing an application of a data subject, the State Inspector Service may suspend relevant proceedings on the ground of a request for additional materials, information and/or documents and shall notify the data subject on it. The consideration of the application of a data subject shall be continued upon cancellation of these grounds. The period of suspension of the proceeding shall not be included in the period specified in the fourth paragraph of this article.

6. The State Inspector Service may take decision to block data before the review of an application of a data subject ends. Notwithstanding that data may be blocked, processing of these data may continue if it is necessary to protect the vital interests of a data subject or a third person, as well as for the state security and defence purposes.

7. After reviewing an application of a data subject, the State Inspector Service shall decide to apply one of the measures under Article 16 of this Law, on which it shall inform a data subject and data processor and/or an authorised person in accordance with the procedure established by the legislation of Georgia and within the established time limit.

#### **Article 15 – Inspection carried out by the State Inspector Service**



1. The State Inspector Service is authorised, on his/her own initiative and upon application of an interested person, conduct an inspection of any data processor and/or authorised person. The State Inspector shall take decision on carrying out the inspection provided for by this article.
2. An inspection carried out by the State Inspector Service shall mean:
  - a) establishing the existence of the observance of data processing principles and legal grounds for data processing;
  - b) inspecting the compliance of implemented procedures and the organisational and technical measures taken to protect data security with the requirements established by the legislation of Georgia;
  - c) inspecting the fulfilment of requirements established under this Law related to a file system catalogue, a register for file system catalogues and keeping record of issuance of data;
  - d) inspecting the lawfulness of data transfer to other states and international organisations;
  - e) inspect compliance with the procedures and requirements for data protection established by this Law, the Law of Georgia on Personal Data Protection and other normative acts.
3. When conducting an inspection, the State Inspector Service may demand from any institution, natural and/or legal person to provide documents and information, including information containing the state, tax, banking, commercial and professional secrets, and/or information containing personal data, also material and/or documentation concerning the operative and investigative activities and crime investigation and/or information that are considered as state secrets and are necessary to conduct the inspection within the scope established by paragraph 2 of this article.
4. A data processor and/or an authorised person shall be obliged to provide the State Inspector with any material, information and/or document immediately or not later than 10 working days if for responding to the information request it is required to:
  - a) retrieve and process the information at another institution or structural unit or consult with this institution or structural unit;
  - b) to retrieve and process information/document in significant volume.
5. The State Inspector Service is authorised on the basis of the substantiated application of the data processor and/or an authorised person to extend the time limit indicated in the paragraph 4 of this article for not more than 10 working days.
6. In order to carry out an inspection, the State Inspector Service may enter in any institution and organisation and become acquainted with any document and information including information containing the state, tax, banking, commercial and professional secrets, and/or information containing personal data, also material and/or documentation concerning the operative and investigative activities and crime investigation and/or information that are considered as state secrets irrespective of their content and storage form.
7. Based on the inspection results, the State Inspector Service may apply measures provided for by Article 39 of this Law.
8. The employee of the State Inspector Service shall be obliged to ensure the security of information containing any kind of secrets, and not to disclose classified information that he/she became aware of when performing official duties. The employee of the State Inspector Service shall retain this obligation even after his/her powers are terminated.

#### **Article 16 – Using of measures by the State Inspector Service**

1. If the State Inspector Service detects a violation of this Law or other normative acts that regulate data processing, he/she may apply one or several following measures simultaneously:
  - a) demand the elimination of violations and deficiencies related to the data processing in the form and within the time limit indicated by him/her;
  - b) demand the temporary or permanent termination of data processing if measures and implemented procedures applied by a data processor or an authorised person for the protection of data security fail to comply with the requirements established by the legislation of Georgia;
  - c) demand the termination of data processing, their blocking, deletion, destruction or depersonalisation if he/she believes that the data processing is conducted in violation of the legislation of Georgia;
  - d) demand the termination of data transfer to other states and international organisations if the transfer of data is carried out in violation of the legislation of Georgia;
  - e) give written advice and recommendations to a data processor and an authorised person if they insignificantly violate the data processing procedures;
  - f) impose an administrative liability on the violator.
2. A data processor and/or an authorised person shall be obliged to fulfil the requirements of the State Inspector Service within the period indicated by this Service and notify the State Inspector Service about their performance.
3. If a data processor and/or an authorised person fails to fulfil the requirements of the State Inspector Service, the State Inspector Service shall apply to court, law enforcement bodies and/or supervisory (regulatory) state institutions of the relevant field defined by the legislation of Georgia.
4. If the State Inspector Service identifies an administrative offence, it may draw up an administrative offence protocol and impose administrative liability upon a data processor and an authorised person, respectively, according to the procedure established by the law of Georgia on Personal Data Protection and Administrative Offences Code of Georgia.
5. If, in the course of activities, the State Inspector Service believes that elements of a crime are present, it shall be obliged to notify on it as prescribed by law an authorised state body if the case is not under its subordination. If the case is under



the subordination of the State Inspector Service, the State Inspector Service shall start the investigation.

6. The fulfilment of the State Inspector Service decision shall be binding in the field of the personal data protection and it may be appealed only in a court under statutory procedures.

#### **Article 17 – Providing consultations and conducting educational activities by the State Inspector Service**

1. The State Inspector Service shall be obliged, if requested, to provide consultations to the state authorities and local self-government bodies of Georgia, other public institutions, legal entities of private law and natural persons on any issue with respect to data processing and protection.

2. The State Inspector Service shall conduct educational activities on issues with respect to data processing and protection.

### **Chapter IV – Powers of the State Inspector Service in the Field of Monitoring of Secret Investigative Actions**

#### **Article 18 – Monitoring of secret investigative actions and activities carried out in the central bank of electronic communication identification data**

1. When conducting a secret investigative action provided for by Article 143<sup>1</sup>(1)(a) of the Criminal Procedure Code of Georgia – telephone bugging and recording (except for the secret investigative action carried out on the criminal case by the State Inspector Service) – the State Inspector Service shall control:

- a) the lawfulness of data processing, via an electronic control system;
- b) the lawfulness of data processing, via a special electronic control system;
- c) the lawfulness of data processing (inspection) by a data processor/an authorised person.

2. The State Inspector Service shall carry out the supervision of investigative actions provided for by Articles 136-138 of the Criminal Procedure Code of Georgia through collation of information provided by the court, the Prosecutor's Office or an electronic communication service provider, and through the examination (inspection) of the lawfulness of data processing by a data processor/an authorised person.

3. The State Inspector Service shall carry out the supervision of secret investigative actions (except for the secret investigative action conducted on the criminal case carried out by the State Inspector Service) provided for by Article 143<sup>1</sup>(1)(b)(d)(f) of the Criminal Procedure Code of Georgia through the examination (inspection) of the lawfulness of data processing by a data processor/an authorised person.

4. The State Inspector Service shall carry out the supervision of secret investigative action (except for the secret investigative action conducted on the criminal case carried out by the State Inspector Service) provided for by Article 143<sup>1</sup>(1)(e) of the Criminal Procedure Code of Georgia through the examination (inspection) of the lawfulness of data processing by a data processor/an authorised person, in accordance with the procedure established by this Law. When carrying out an examination (inspection) in the case provided for by this paragraph, requesting the information on the identity of a person participating in the conduction of the secret investigative action (except for a data subject, an investigator and a prosecutor) and participation in the process of carrying out its examination (inspection) and requesting information on the operative and operative-technical equipment characteristics used during a secret investigative action provided for by this paragraph is possible only with the consent of the head of the body conducting a secret investigative action. In the case provided for by this paragraph, carrying out an examination (inspection) does not include the direct participation in the process of preparation/conducting secret investigative actions and inspecting a disguised housing, service or other disguised objects and premises on the place.

5. Conducting a secret investigative action provided for by Article 143<sup>1</sup>(1)(c) of the Criminal Procedure Code of Georgia and carrying out the measure provided for by Article 7(3)(b) of the Law of Georgia on Personal Data Protection (except for the secret investigative action conducted on the criminal case carried out by the State Inspector Service), the State Inspector Service shall monitor through a special electronic control system of determining real-time geolocation and the examination (inspection) of the lawfulness of data processing by a data processor/an authorised person.

6. The State Inspectors Service controls the activities carried out in the central bank of electronic communication identification data (except for the secret investigative action conducted on the criminal case carried out by the) through the electronic control system of central bank of electronic communication identification data and through the examination (inspection) of the lawfulness of data processing by a data processor/an authorised person.

7. When carrying out the examination (inspection) of the agency, the State Inspector Service is authorised to:

- a) enter into the limited access area of the agency and observe the activities performed by the authorised bodies in the current mode;
- b) get acquainted with the legal documents and technical instructions regulating the activities of the agency (including state secrets);
- c) receive information on the technical infrastructure used for the purpose of secret investigative actions and to check this infrastructure;
- d) request explanations related to separate issues identified during the examination (inspection) from the employees of the Agency;
- e) exercise other powers provided for by this Law.



8. The agency servant is obliged to cooperate with the State Inspector Service, fully provide the State Inspector Service with the requested information and documents, also give explanations on the separate issues identified during the examination (inspection).

## **Chapter V – Powers of the State Inspector Service in the Field of Investigation of Crimes Committed by the Representative of Law Enforcement Body, Officers or Persons Equal to them**

### **Article 19 – Criminal cases subordinated to the State Inspector Service**

1. Investigative jurisdiction of the State Inspector Service shall apply to:

a) the crimes provided for by Articles 144<sup>1</sup>–144<sup>3</sup>, Article 332(3)(b) and (c), Article 333(3)(b) and (c), Article 335 and/or Article 378(2) of the Criminal Code of Georgia if they are committed by the representatives of law enforcement body, officers or persons equal to them;

b) other crimes committed by the representatives of law enforcement body, officers or persons equal to them which caused the death of a person and when committing it, this person was in the temporary detention isolator or in penitentiary institution or in any other place, where he/she was forbidden to leave the place against his/her will by a representative of a law enforcement body, an officer or a person equal to him/her, and/or this person was otherwise under the effective control of the state.<sup>2</sup> If, after the start of the investigation, it was revealed that the investigation of the criminal case is subordinated to the State Inspector Service, the prosecutor shall send the case according to its subordination after conducting urgent investigative actions.

3. In the case of cumulative crime, when one or more of committed crimes do not subordinate to the State Inspector Service, by the decision of a prosecutor, who is acting in accordance with Article 110(1) of the Criminal Procedure Code of Georgia, the case that is subordinate to the State Inspector Service shall be allocated from the criminal case as a separate proceedings, and it shall be transferred for investigation to the State Inspector Service, in accordance with the procedure established by Article 102 of the Criminal Procedure Code of Georgia. In order to ensure the effectiveness of the investigation, the prosecutor may decide to transfer the criminal case at its full extent to the State Inspector Service, without allocation as a separate proceeding.

4. If the State Inspector Service has information that any investigative body is investigating a criminal case belonging to the investigative jurisdiction of the State Inspector Service, the Relevant Deputy State Inspector may request the case materials for review and apply to the supervising prosecutor in writing with a substantiated proposal for transferring the criminal case belonging to his/her investigative jurisdiction from another investigative body for investigation. If the supervising prosecutor considers inexpedient the transfer of the case to the State Inspector Service, the State Inspector shall, not later than 24 hours, apply in writing to the Chief Prosecutor of Georgia with a substantiated proposal on the transfer of the case for investigation. The proposal of the State Inspector or the deputy State Inspector shall be reviewed within 24 hours after application.

5. If the State Inspector Service has information that an investigative body is investigating the case belonging to the investigative jurisdiction of the State Inspector Service, which was transferred to him/her by the Chief Prosecutor according to Article 33(6)(a) of the Criminal Procedure Code of Georgia, the State Inspector may, not later than 24 hours, apply in writing to the Chief Prosecutor of Georgia with a substantiated proposal for transferring the case for investigation. The proposal of the State Inspector shall be reviewed within 24 hours after the application.

6. The Relevant Deputy State Inspector shall apply to the supervising prosecutor in writing with a substantiated proposal on the case belonging to the investigative jurisdiction of the State Inspector Service on:

a) the expediency of the initiation and of the termination of criminal prosecution and/or investigation;

b) the expediency of such investigative action or procedural action to be conducted on the basis of the judge ruling that restricts the inviolability of private property, ownership, or the right to privacy – not later than 14 days before pre-trial hearing;

c) the inclusion of a specific evidence in the list of evidence to be submitted to the Court.

7. If the supervising prosecutor does not share the substantiated proposal of the Relevant Deputy State Inspector on the issue provided for by paragraph 6 of this article, the State Inspector may, not later than 48 hours, apply in writing to the Chief Prosecutor of Georgia on the same issue with the substantiated proposal. The proposal of the State Inspector or the deputy State Inspector shall be reviewed within 72 hours after application.

8. If there are any circumstances excluding participation of the Relevant Deputy State Inspector in criminal proceedings provided for by Article 59(1) of the Criminal Procedure Code of Georgia the State Inspector shall carry out the powers defined by paragraph 4 and paragraph 6 of this article.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

### **Article 20 – Powers of the State Inspector Service in the field of investigation**

In order to investigate the criminal case under the investigative jurisdiction of the State Inspector Service, the state Inspector Service shall:

a) within the scope of investigative jurisdiction determined by the legislation of Georgia, in cases provided for by this Law and the Criminal Procedure Legislation of Georgia and in accordance with the established procedure, conduct the





- investigation at full extent and carry out operative and investigative activities;
- b) obtain, process and analyse information related to the activities of the State Inspector Service, implement information systems;
- c) if necessary, use technical equipment/means and/or means of transport that belong to another state body, except for the agency, the employee of which committed the fact of crime on which the investigation is carried out;
- d) carry out other measures and actions defined by the legislation of Georgia.

#### **Article 21 – Right to use coercive measures**

1. While performing official duties, the Relevant Deputy State Inspector, an investigator of the State Inspector Service (except for an intern investigator) and an employee carrying out operative and investigative activities shall have the right to use physical force, special means and firearms under the procedure established by the legislation of Georgia.
2. The Relevant Deputy State Inspector, an investigator of the State Inspector Service (except for an intern investigator) and an employee carrying out operative and investigative activities shall use physical force, special means and firearms in cases provided for and under the procedure established by Articles 30-32, Article 33 (except for paragraph 3(d), (f) and (g) and paragraph 6), Article 34 (except for paragraphs 1, 2 and 11) and Article 35 of the Law of Georgia on Police and other legislative acts of Georgia.
3. The Relevant Deputy State Inspector, an investigator of the State Inspector Service (except for an intern investigator) and an employee carrying out operative and investigative activities shall have the right, after he/she has taken the appropriate course, to use service weapon and special means under the procedure established by the legislation of Georgia. The rules for keeping, carrying and using the firearms and special means at the disposal of the relevant employee of the State Inspector Service shall be established by the legislation of Georgia and a normative act of the State Inspector.
4. The State Inspector shall define the list of firearms and ammunition in the armament of the State Inspector Service.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

#### **Article 22 – Procedural management and supervision of the Prosecutor's Office**

1. Procedural management and supervision on the cases to be investigated by the State Inspector Service, also criminal prosecution shall be implemented and the public prosecution supported by the structural unit of the procedural supervision of investigation in the investigation division of State Inspector Service of the Chief Prosecutor's Office of Georgia that is under direct subordination of the Chief Prosecutor of Georgia.
2. The General Inspection of the Chief Prosecutor's Office of Georgia shall exercise the functions determined by the first paragraph of this article on the case of crime to be investigated by the State Inspector Service that is committed by the employee of the Prosecutor's Office.

*Law of Georgia No 3802 of 30 November 2018 – website, 13.12.2018*

#### **Article 23 – Selection, appointment and powers of employees of a structural unit of the State Inspector Service performing official inspection and employees of the Investigation Division of the State Inspector Service**

1. An employee of a structural unit of the State Inspector Service performing official inspection, and an employee of the Investigation Division of the State Inspector Service (except where so provided for by paragraphs 5 and 6 of this Article) shall be appointed to the office on competition basis by order of the State Inspector. The procedure and conditions for conducting a competition for the selection and appointment of employees of a structural unit of the State Inspector Service performing official inspection, and employees of the Investigation Division of the State Inspector Service, and the qualification requirements for the appointees (the basic requirements that must not be less than the basic requirements determined by Article 27 of the Law of Georgia on Public Service, the special requirements and the extra requirements) shall be defined by this Law and a relevant legal act of the State Inspector. For the selection and appointment of an employee of a structural unit of the State Inspector Service performing official inspection, and an employee of the Investigation Division of the State Inspector Service, the State Inspector shall set up a competition committee and shall determine the procedure of its activity. Specialists in the fields of criminal justice and human rights must be invited to be members of the competition committee set up for conducting a competition for the selection and appointment of an investigator of the State Inspector Service.
2. A citizen of Georgia, who has not been previously convicted, has higher legal education, has at least one-year experience of working as a judge, a prosecutor, an investigator or a lawyer, has appropriate business qualities and high moral reputation, a command of the language of proceedings and has passed the unified qualification examination with the Training Centre of Justice of Georgia in the following disciplines: Constitutional Law, International Human Rights Law, Criminal Law, Criminal Procedure Law, Penitentiary Law, and Principles of Operative and Investigative Activities, shall be appointed as an investigator of the State Inspector Service.
3. In order to maintain and upgrade the qualification of the investigator of the State Inspector Service, the State Inspector Service periodically shall ensure the introduction and implementation of relevant training programmes.
4. The requirement set by paragraph 2 of this article for work experience shall not apply to the appointment of a person as an intern investigator at the State Inspector Service. A person shall be appointed as an intern investigator at the State



Inspector Service under the procedure established by this Law and the State Inspector.

5. An employee of the Investigation Division of the State Inspector Service may be transferred to the State Inspector Service without competition, which means granting him/her other powers corresponding to the same hierarchical rank and position and/or functionally similar powers (horizontal transfer).

6. An employee of a structural unit of the State Inspector Service performing official inspection may be transferred without competition under the mobility defined by the Law of Georgia on Public Service or by way of horizontal transfer under the procedure established by paragraph 5 of this article.

7. For maintaining and improving the qualification of an employee of the Investigation Division of the State Inspector Service, the State Inspector Service shall periodically ensure introduction and implementation of appropriate training programmes.

8. The powers and duties provided for by this Law, the Criminal Procedure Code of Georgia, the Law of Georgia on Operational and Investigative Activities and other legislative and subordinate normative acts of Georgia shall apply to an employee of the Investigation Division of the State Inspector Service.

9. The powers and duties provided for by this Law and a relevant legal act of the State Inspector shall apply to an employee of a structural unit of the State Inspector Service performing official inspection. *Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

## **Article 24 – Legal Protection of Employees of the State Inspector Service**

1. When performing his/her official duties an employee of the State Inspector Service is the representative of the state power and he/she is protected by the state. The fulfilment of the legal requirement of an employee of the State Inspector Service is mandatory for everyone.

2. No one has the right to interfere with the official activity of the employee of the State Inspector Service except in cases provided for by this Law.

3. Hindering an employee of the State Inspector Service from performing his/her official duties, degrading his/her honour and dignity, resisting, threatening, or using violence against him/her, as well as making an attempt on his/her life, health or property shall result in liabilities as provided for by the legislation of Georgia. Upon the receipt of the information on encroaching the life, health or property of the State Inspector, the Relevant Deputy State Inspector, an employee of the State Inspector Service or his/her family member, the state bodies shall be obliged to take actions provided for by law to protect their personal safety and property.

4. An employee of the State Inspector Service shall refuse to carry out an obviously unlawful order or instruction if he/she knew or should have known about its unlawfulness, and shall act within the law.

5. An employee of the State Inspector Service shall inform the State Inspector in the case of receiving an obviously unlawful order or instruction.

6. An employee of the State Inspector Service who refuses to carry out an obviously unlawful order or instruction shall not be held liable.

7. A person who issues an obviously unlawful order or instruction to an employee of the State Inspector Service shall be held liable as prescribed by law.

8. An employee of the State Inspector Service shall have the right to apply to court to protect his/her rights and freedoms.

9. An employee of the State Inspector Service shall be given an ID card and/or a special badge the form of and the procedure for issuing which shall be established by the State Inspector. An employee of the Investigation Division of the State Inspector Service may wear the uniform of a form determined by a normative act of the State Inspector.

10. The security of an arrested, detained or convicted employee of the Investigation Division of the State Inspector Service shall be provided by a relevant body defined by the legislation of Georgia.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

## **Article 25 – Social Protection of employees of the State Inspector Service with a special rank**

1. The State shall provide social protection of employees of the State Inspector Service with a special rank.

2. Unless otherwise determined by the legislation of Georgia, social protection guarantees for officers provided for by the Law of Georgia on Public Service (including the social guarantees related to the physical injury or death in connection with the execution of official duties) shall apply to employees of the State Inspector Service with a special rank.

3. Employees of the State Inspector Service with a special rank shall receive:

a) the official salary defined under the procedure determined by paragraph 5 of this article;

b) the salary increment and the monetary reward determined in accordance with paragraph 5 of this article and the Law of Georgia on Remuneration in Public Institutions;

c) the rank salary corresponding to a special rank;

d) the increment for the length of service;

e) other increments and compensations provided for by the legislation of Georgia.

4. An employee of the State Inspector Service with a special rank, who has been dismissed from service due to his/her reaching an age limit or due to his/her recognition as a person with disabilities shall be entitled, under the legislation of



Georgia, to receive a relevant state compensation or state pension.

5. The procedure and amount of the remuneration, amounts of the rank salary and of the increment for the length of service for an employee of the State Inspector Service with a special rank, and the amounts of other increments and compensations provided for by the legislation of Georgia shall be defined by the normative acts of the State Inspector and other legislative and subordinate normative acts of Georgia.

6. An employee of the State Inspector Service with a special rank shall be entitled to the mandatory state insurance. The issues with regard to the state insurance of the family members of an employee of the State Inspector Service with a special rank (including the circle of family members) shall be defined by the State Inspector.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

#### **Article 26 – Special ranks of employees of the State Inspector Service**

The special ranks of employees of the State Inspector Service shall be defined by the Law of Georgia on Special State Ranks.

*Law of Georgia No 4981 of 20 September 2019 – website, 23.9.2019*

### **Chapter VI – Transitional and Final Provisions**

#### **Article 27 – Succession in the title of the Personal Data Protection Inspector**

1. The position of Personal Data Protection Inspector shall be abolished upon entry into force of this Law. The State Inspector and the State Inspector Service shall be deemed to be a successor in title of the Personal Data Protection Inspector. The employees of the staff of the Personal Data Protection Inspector shall be transferred to the State Inspector Service.

2. Upon entry into force of this Law, the powers of the State Inspector shall be acquired by the acting Personal Data Protection Inspector before the expiry of his/her powers, who was elected by the Parliament of Georgia and is in office by the time of the entry into force of this Law.

#### **Article 28 – Measures to be carried out for the entry into force of this Law**

1. By 1 June 2019 the Chief Prosecutor of Georgia shall ensure the issuance of a normative act of the Chief Prosecutor compatible with this Law which defines the investigative jurisdiction of the criminal and territorial cases.

2. By 1 November 2019 the Government of Georgia and the State Inspector shall ensure the adoption/issuance of relevant normative acts provided for by this Law. Legal acts issued by the Personal Data Protection Inspector shall retain legal force until the entry into force of legal acts issued by the State Inspector on relevant issues.

3. By 1 November 2019, the State Inspector shall ensure the implementation of the measures provided for by the Legislation of Georgia for the appointment of the required number of investigators in order to fully perform the functions provided for by this Law.

4. Before 30 March 2020, the Legal Entity Under Public Law called Operative-Technical Agency shall ensure implementation of the special electronic control system for determining real-time geolocation provided for by this Law.

5. By the date of the entry into force of this Law, the Government of Georgia shall ensure the implementation of measures necessary to transfer corresponding logistical base and financial resources to the State Inspector Service and the Prosecutor's Office of Georgia.

*Law of Georgia No 4238 of 27 December 2018 – website, 29.12.2018*

*Law of Georgia No 4893 of 28 June 2019 – website, 28.6.2019*

#### **Article 29 – Investigative jurisdiction of the State Inspector Service**

The investigative jurisdiction of the State Inspector Service shall apply to the relevant crimes committed after 1 November 2019.

*Law of Georgia No 4238 of 27 December 2018 – website, 29.12.2018*

*Law of Georgia No 4893 of 28 June 2019 – website, 28.6.2019*

#### **Article 30 – Entry into force of this Law**

1. This Law, except for Articles 1-27, Article 28(2) and Article 29, shall enter into force upon its promulgation.

2. Articles 1 and 2, Article 3 (1)(a-e), Article 3 (1)(g-j) and Article 3(2), Articles 4-17, Article 18(1-4) and Article 18(6-8), Article 27, of this Law shall enter into force from 10 May 2019.

2<sup>1</sup>. Articles 23-26 and Article 28(2) of this Law shall enter into force from 1 October 2019.

3. Articles 19-22 and Article 29 of this Law shall enter into force from 1 November 2019.

4. Article 3(1)(f) and Article 18(5) of this Law shall enter into force from 30 March 2020.

*Law of Georgia No 4238 of 27 December 2018 – website, 29.12.2018*

*Law of Georgia No 4587 of 08 May 2019 – website, 8.5.2019*

*Law of Georgia No 4893 of 28 June 2019 – website, 28.6.2019*



President of Georgia

Giorgi Margvelashvili

Kutaisi

21 July 2018

No 3273- ოს

