

LAW OF GEORGIA

ON THE SPECIAL INVESTIGATION SERVICE

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Chapter I – General Provisions

Article 1 – Scope of the Law

This Law shall define the status, the principles of activities and the powers of the Special Investigation Service, procedures for the election and premature termination of powers of the Head of the Special Investigation Service, and other issues related to the exercise of powers of the Special Investigation Service.

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Article 2 – The status and the field of activity of the Special Investigation Service

The Special Investigation Service shall be set up on the basis of this Law, which is an independent state body. The aim of the Special Investigation Service shall be the impartial and effective investigation of crimes defined by Article 19(1) of this Law.

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Article 3 – Definitions of terms

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

- a) Head of the Special Investigation Service – a chief officer of the Special Investigation Service who is elected to the position under the procedure established by this Law and the rules of procedure of the Parliament of Georgia, and exercises powers provided for by this Law and/or another legislative act;
- b) (Deleted – 30.12.2021, No 1312);
- c) (Deleted – 30.12.2021, No 1312);
- d) (Deleted – 30.12.2021, No 1312);
- e) (Deleted – 30.12.2021, No 1312);
- f) (Deleted – 30.12.2021, No 1312);
- g) (Deleted – 30.12.2021, No 1312);
- h) representative of the law enforcement body – an employee of the Prosecutor's Office of Georgia (except for the Chief Prosecutor of Georgia and a prosecutor of a structural unit carrying out Procedural Supervision of Investigation at the Investigation Division of the Special Investigation 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 investigation 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 crime provided for by Chapter XXXIX of the Criminal Code of Georgia (except for the Head of the Special Investigation Service, the first deputy and a deputy of the Head of the Special Investigation Service, an investigator and a servant of the Special Investigation 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 Special Investigation Service/employee of the investigation division – an employee of a structural unit of the Special Investigation Service, which directly performs functions provided for by the criminal procedure legislation of Georgia and/or carries out operational and investigative activities;
- l) investigator of the Special Investigation Service – a chief officer of the investigation division of the Special Investigation Service, his/her deputy, a chief officer 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. (Deleted – 30.12.2021, No 1312).

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

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

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Chapter II – Principles of Activities and Guarantees for Exercising Powers of the Special Investigation Service; Powers of



Article 4 – Principles of the activities of the Special Investigation Service

1. In conducting activities, the Special Investigation Service shall be guided by the Constitution of Georgia, international agreements of Georgia, universally recognised principles and norms of international law, this Law and other relevant legal acts.
2. Principles of the activities of the Special Investigation Service shall be:
 - a) legality;
 - b) protection of human rights and freedoms;
 - c) independence and political neutrality;
 - d) objectivity and impartiality;
 - e) professionalism;
 - f) protection of secrecy and confidentiality.

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Article 5 – Powers of the Head of the Special Investigation Service

1. The Head of the Special Investigation Service shall:
 - a) administer the Special Investigation Service and make decisions on issues related to the activity of this Service;
 - b) define the structure of the Special Investigation Service, the powers of the structural units and employees;
 - c) approve the staff list of the Special Investigation Service, the remuneration procedure and amounts in accordance with the legislation of Georgia;
 - d) define functions and duties of the first deputy and deputies of the Special Investigation Service and carry out the delegation of powers to them;
 - e) appoint and dismiss the employees of the Special Investigation Service to and from their positions;
 - f) award a special state rank (the ‘special rank’) , under the procedure established by the legislation of Georgia , to the first deputy Head of the Special Investigation Service, or to a deputy who performs official supervision of the activities of the Investigation Division of the Special Investigation Service (the ‘relevant Deputy Head of the Special Investigation Service), to employees of a structural unit of the Special Investigation Service performing official inspection and to employees of the Investigation Division of the Special Investigation Service (except for intern investigators), and reduce them in a special rank;
 - g) represent the Special Investigation Service in the relationship with state bodies, international and other organisations;
 - h) ensure the protection and intended use of the state property transferred to the Special Investigation Service;
 - i) exercise other powers in accordance with law.
2. The Head of the Special Investigation Service shall, within the scope of his/her powers, issue a subordinate normative act – an order on the issue related to the activity of the Special Investigation Service.
3. The Head of the Special Investigation Service shall, on the basis of an appropriate normative act and for its enforcement, issue individual legal acts, including decisions, orders and instructions.

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

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Article 6 – (Deleted)

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

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Article 6¹ – Election of the Head of the Special Investigation Service and his/her term of office

1. A citizen of Georgia, who has no previous criminal record and has higher education in law, at least 5 years of work experience in the system of justice or law enforcement bodies, or in the area of human rights protection, and a high professional and moral reputation, may be elected to the position of the Head of the Special Investigation Service.
2. A competition for the selection of the head of the Special Investigation Service shall be announced and the competition commission shall be set up by an order of the Prime Minister of Georgia. The members of the competition commission shall be as follows:
 - a) a representative of the Government of Georgia;
 - b) the chairperson of the Human Rights and Civil Integration Committee of the Parliament of Georgia;
 - c) the chairperson of the Legal Issues Committee of the Parliament of Georgia;
 - d) the deputy chairperson of the Supreme Court of Georgia;
 - e) the first deputy or a deputy of the General Prosecutor of Georgia;
 - f) the Public Defender of Georgia or a representative of the Public Defender of Georgia;
 - g) a person with relevant experience selected by the Public Defender of Georgia through open competition from among



the members of non-entrepreneurial (non-commercial) legal persons, who has work experience in the area of human rights protection and/or in the area of personal data protection.

3. Not earlier than 11 weeks and not later than 10 weeks before expiry of the term of office of the Head of the Special Investigation Service, and in the case of premature termination of his/her powers, within one week after the premature termination of powers, the agencies and institutions defined by paragraph 2 of this article shall inform the Prime Minister of Georgia of the names of the members of the competition commission for the selection of the Head of the Special Investigation Service. Within 7 days after expiry of the deadline for nominating the members of the competition commission, the Prime Minister of Georgia shall convene the first session of the competition commission. The session of the competition commission shall be duly constituted if it is attended by majority of the total number of members of the competition commission. The competition commission shall, at the first session, elect the chairperson of the competition commission from among its members and shall, within one week, approve the statute of the competition commission for the selection of the Head of the Special Investigation Service, which shall define the procedure for activity of the competition commission, and the time limit and procedure for nominating candidates for the Head of the Special Investigation Service.

4. The competition commission for the selection of the Head of the Special Investigation Service shall, by majority of votes, select not less than 2 and not more than 5 candidates for the head of the Special Investigation Service and shall nominate them to the Prime Minister of Georgia. Based on the number of candidates selected, the nomination of equal number of candidates of different genders must be ensured to the extent possible.

5. The Prime Minister of Georgia shall, within 10 days, nominate to the Parliament of Georgia 2 candidates for the election to the position of the Head of the Special Investigation Service.

6. The Parliament of Georgia shall, not later than 14 days after the nomination of candidates, elect the Head of the Special Investigation Service under the procedures established by the Rules of Procedure of the Parliament of Georgia. If this time limit coincides, fully or partially, with the period between sessions of the Parliament of Georgia, the time limit set by this paragraph for the election of the Head of the Special Investigation Service shall be extended by the respective period. If the Parliament of Georgia fails to elect the Head of the Special Investigation Service through voting, or if both candidates refuse to be elected to the position of the Head of the Special Investigation Service before voting, the Prime Minister of Georgia shall, within 2 weeks, announce a new competition.

7. If the Head of the Special Investigation Service is elected before expiry of the term of office of the current Head of the Special Investigation Service, the term of office of the newly elected head of the Special Investigation Service shall commence from the day following the expiry of the term of office of the current Head of the Special Investigation Service. If the Head of the Special Investigation Service is elected after expiry or premature termination of the term of office of the current Head of the Special Investigation Service, the term of office of the newly elected Head of the Special Investigation Service shall commence from the day following his/her election.

8. The term of office of the Head of the Special Investigation Service shall be 6 years. A person may not be elected to the position of the Head of the Special Investigation Service twice in a row. The Head of the Special Investigation Service may not perform his/her duties after expiry of his/her term of office or premature termination of his/her term of office.

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Article 6² – First deputy and deputy of the Head of the Special Investigation Service

1. The Head of the Special Investigation Service shall have the first deputy and a deputy, who are appointed to the positions by his/her order. Upon expiry of the term of office or premature termination of the term of office of the Head of the Special Investigation Service, the term of office of the first deputy and the deputy Head of the Special Investigation Service shall be terminated as soon as the newly elected Head of the Special Investigation Service starts to exercise his/her powers under the procedure established by this Law.

2. The relevant deputy Head of the Special Investigation Service shall coordinate activities of the Investigation Division of the Special Investigation Service and shall carry out official supervision over the activities of employees of the Investigation Division within the scope of his/her competence.

3. If the Head of the Special Investigation Service is absent, or fails to exercise his/her powers, or his/her powers are suspended, or his/her term of office expires or is prematurely terminated, the powers of the Head of the Special Investigation Service shall be exercised by the first deputy Head of the Special Investigation Service, and if his/her first deputy is absent, his/her powers shall be exercised by the deputy Head of the Special Investigation Service. In performing duties of the Head of the Special Investigation Service, the first deputy and deputy Head of the Special Investigation Service shall enjoy the powers and legal guarantees granted to the Head of the Special Investigation Service.

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Article 7 – (Deleted)

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Article 7¹ – Inviolability of the Head of the Special Investigation Service

1. The Head of the Special Investigation Service shall be inviolable. Criminal proceedings may be brought against the



Head of the Special Investigation Service, he/she may be arrested or detained, his/her place of residence or work, or vehicle may be searched or his/her personal search may be carried out only with a prior consent of the Parliament of Georgia. An exception shall be the case when he/she is caught at the crime scene, which shall be immediately notified to the Parliament of Georgia. If the Parliament of Georgia fails to give consent within 48 hours, the arrested or detained Head of the Special Investigation Service must be released immediately.

2. If the Parliament of Georgia gives consent to the arrest or detention of the Head of the Special Investigation Service, his/her term of office shall be suspended by a decree of the Parliament of Georgia until a decree/ruling on terminating criminal prosecution is passed, or a court decision enters into legal force.

3. The personal safety of the Head of the Special Investigation Service shall be ensured by appropriate state bodies under the established procedure.

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Article 8 – (Deleted)

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 8¹ – Incompatibility of offices of the Head of the Special Investigation Service

1. The position of the Head of the Special Investigation Service shall be incompatible with membership of a state body and a representative body of a municipality, with any position in state service and public service and with other remunerative activity, except for scientific, teaching and artistic activities. The Head of the Special Investigation Service may not engage in entrepreneurial activities, directly exercise powers of a permanent head of a business entity, of a member of a supervisory, control, audit or advisory body, be a member of a political party or participate in political activities.

2. The Head of the Special Investigation Service shall be banned from participating in assemblies or manifestations in support of or against a citizens' political association.

3. A person elected to the position of the Head of the Special Investigation Service shall cease activities incompatible with this position or resign from the position incompatible with his/her status within 10 days from his/her election. Until a person elected to the position of the Head of the Special Investigation Service ceases activities incompatible with the position or resigns from the position incompatible with his/her status, he/she shall not be authorised to start exercising powers of the Head of the Special Investigation Service. If the Head of the Special Investigation Service fails to meet the requirement set by this paragraph within the aforementioned period of time, his/her term of office shall be prematurely terminated.

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Article 9 – (Deleted)

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Article 9¹ – Premature termination of the term of office of the Head of the Special Investigation Service

1. The term of office of the Head of the Special Investigation Service shall be prematurely terminated if:

- a) he/she has lost the citizenship of Georgia;
- b) he/she fails to perform his/her duties for 4 consecutive months due to his/her health status;
- c) a court judgment of conviction against him/her has entered into legal force;
- d) he/she has been recognised by court as a beneficiary of support (unless otherwise defined by the court judgement), declared missing or as dead;
- e) he/she has held a position incompatible with his/her status or carries out activities incompatible with the position;
- f) he/she has voluntarily resigned from the position;
- g) he/she passed away.

2. In the case provided for by paragraph 1 of this article, the term of office of the Head of the Special Investigation Service shall be deemed prematurely terminated from the moment when an appropriate circumstance occurs, of which the Chairperson of the Parliament of Georgia shall immediately notify the Parliament of Georgia. The Parliament of Georgia shall terminate the term of office of the Head of the Special Investigation Service on the basis of taking note of the information communicated by the Chairperson of the Parliament of Georgia.

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Article 10 – Financial and organisational provision of the Special Investigation Service

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

2. Employees of a structural unit of the Special Investigation 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 or a normative act of the Head of the Special Investigation Service issued on the basis of this Law. Other employees of the Special Investigation 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 Special Investigation Service performing official inspection and employees of the Investigation Division at the Special Investigation Service shall be established by the Head of the Special Investigation Service.

3. The Head of the Special Investigation Service shall approve the Code of Ethics for the employees of the Investigation Division of the Special Investigation Service. Violation of the Code of Ethics shall lead to the imposition of disciplinary liabilities on offenders. Disciplinary proceedings against an employee of the Investigation Division of the Special Investigation Service shall be conducted under the procedure established by the Head of the Special Investigation Service.

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

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

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Article 11 – Independence of the Special Investigation Service

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

2. For ensuring the independence of the Special Investigation Service, the state shall provide it with adequate working conditions.

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Article 12 – Annual report of the Special Investigation Service

1. The Head of the Special Investigation Service shall, not later than March 31 of each year, submit a report to the Parliament of Georgia on the situation with respect to investigation of criminal cases under the jurisdiction of the Special Investigation Service and to the activities carried out by the Special Investigation Service in this regard in the previous year.

2. An annual report of the Special Investigation Service must include information on the offences under the jurisdiction of the Special Investigation Service, statistical data on the ongoing investigation in the area of its powers, general trends, assessments, opinions and recommendations, and other issues concerned. An annual report of the Special Investigation Service must not include information on the issues related to the investigation of a particular criminal case and/or particular circumstances of a criminal case.

3. Unless otherwise provided for by law, no one shall have the right to request the Head of the Special Investigation Service a report on the investigation of a particular criminal case, or such information the disclosure of which may impede the investigation process thereof.

4. Information on the activities conducted by the Special Investigation Service, taking the restrictions set by this article into consideration, shall be communicated to the public through the website of the Special Investigation Service.

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Chapter III – (Deleted)

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Article 13 – (Deleted)

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Article 14 – (Deleted)

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Article 15 – (Deleted)

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Article 16 – (Deleted)

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Article 17 – (Deleted)

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Article 18 – (Deleted)

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

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Article 19 – Criminal cases within the jurisdiction of the Special Investigation Service

1. Investigative jurisdiction of the Special Investigation Service shall apply to:

- a) a crime provided for by Articles 144¹–144³, 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 it has been committed by a representative of a law enforcement body, or by an officer or a person equal to him/her;
- b) another crime committed by a representative of a law enforcement body, an officer or a person equal to them, which has caused the death of a person and at the moment of committing it, this person was in the temporary detention cell 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 efficient control of the state;
- c) a crime provided for by Articles 108, 109, 111, 113-118, 120-124, 126, 126¹, 137-139, 143-144 and 150-151¹ of the Criminal Code of Georgia if it has been committed by a representative of a law enforcement body (except for a prosecutor);
- d) a crime provided for by Articles 153-159, 162-163 and 164⁴ of the Criminal Code of Georgia.

2. If, after the start of the investigation, it was revealed that the investigation of a criminal case falls within the jurisdiction of the Special Investigation Service, the prosecutor shall, after conducting urgent investigative actions, remit the case according to the jurisdiction.

3. In the case of cumulative crime, when one or more of the committed crimes do not fall within the jurisdiction of the Special Investigation 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 falls within the jurisdiction of the Special Investigation Service shall be allocated from the criminal case as a separate proceedings, and it shall be transferred for investigation to the Special Investigation 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 Special Investigation Service, without allocation as a separate proceeding.

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

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

6. The Relevant Deputy Head of the Special Investigation Service may apply to the supervising prosecutor in writing with a substantiated proposal on the criminal case falling within the investigative jurisdiction of the Special Investigation Service on:

- a) the expediency of the initiation and of the termination of criminal prosecution and/or investigation;
- b) not later than 14 days before the pre-trial hearing, 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;
- c) the inclusion of specific evidence in the list of evidence to be submitted to the Court.

7. If the supervising prosecutor fails to accept the substantiated proposal of the Relevant Deputy Head of the Special



Investigation Service on the issue provided for by paragraph 6 of this article, the Head of the Special Investigation Service 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 Head of the Special Investigation Service or his/her deputy shall be reviewed within 72 hours after application.

8. If there is a circumstance excluding participation of the Relevant Deputy Head of the Special Investigation Service in criminal proceedings provided for by Article 59(1) of the Criminal Procedure Code of Georgia, the powers defined by paragraphs 4 and 6 of this article shall be exercised by the Head of the Special Investigation Service.

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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 20 – Powers of the Special Investigation Service in the field of investigation

In order to investigate a criminal case falling within the investigative jurisdiction of the Special Investigation Service, the Special Investigation Service may:

- a) within the scope of the investigative jurisdiction defined 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 Special Investigation Service, set up information systems;
- c) when 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.

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Article 21 – Right to use coercive measures

1. The Relevant Deputy Head of the Special Investigation Service, an investigator of the Special Investigation Service (except for an intern investigator) and an employee carrying out operative and investigative activities shall have the right, while performing official duties, to use physical force, special means and firearms under the procedure established by the legislation of Georgia.

2. The Relevant Deputy Special Investigation Service, an investigator of the Special Investigation 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 Head of the Special Investigation Service, an investigator of the Special Investigation 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 Special Investigation Service shall be established by the legislation of Georgia and a normative act of the Head of the Special Investigation Service.

4. The list of the firearms and ammunition being in the armament of the Special Investigation Service shall be defined by the Head of the Special Investigation Service.

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

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

1. Procedural management of and supervision over the cases to be investigated by the Special Investigation Service, and criminal prosecution shall be carried out and the public prosecution supported by the structural unit of the procedural supervision of investigation in the investigation division of Special Investigation Service of the Chief Prosecutor's Office of Georgia, which is under the direct subordination of the Chief Prosecutor of Georgia.

2. The General Inspection of the Chief Prosecutor's Office of Georgia shall exercise the functions defined by paragraph 1 of this article on a case of crime to be investigated by the Special Investigation Service, which is committed by an employee of the Prosecutor's Office.

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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 23 – Selection, appointment to the office and powers of employees of a structural unit of the Special Investigation Service performing official inspection and employees of the Investigation Division of the Special Investigation Service

1. An employee of a structural unit of the Special Investigation Service performing official inspection, and an employee of the Investigation Division of the Special Investigation Service (except where so provided for by paragraphs 5 and 6 of this Article) shall be appointed to the office on competition basis by an order of the Head of the Special Investigation Service.



The procedure and conditions for conducting a competition for the selection and appointment to the office of employees of a structural unit of the Special Investigation Service performing official inspection, and employees of the Investigation Division of the Special Investigation 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 Head of the Special Investigation Service. For the selection and appointment to the office of an employee of a structural unit of the Special Investigation Service performing official inspection, and of an employee of the Investigation Division of the Special Investigation Service, the Head of the Special Investigation Service 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 Special Investigation 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 Special Investigation 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 Special Investigation Service. A person shall be appointed as an intern investigator at the Special Investigation Service under the procedure established by this Law and the Head of the Special Investigation Service.

5. An employee of the Investigation Division of the Special Investigation Service may be transferred to the Special Investigation 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 Special Investigation 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 Special Investigation Service, the Special Investigation 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 Special Investigation Service.

9. The powers and duties provided for by this Law and a relevant legal act of the Head of the Special Investigation Service shall apply to an employee of a structural unit of the Special Investigation Service performing official inspection.

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

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Article 24 – Legal Protection of Employees of the Special Investigation Service

1. When performing his/her official duties, an employee of the Special Investigation Service shall be the representative of the state authorities and he/she shall be protected by the state. Fulfilment of the legal requirement of an employee of the Special Investigation Service shall be mandatory for everyone.

2. No one shall have the right to interfere with the official activity of the employee of the Special Investigation Service, except where so provided for by this Law.

3. Hindering an employee of the Special Investigation Service while performance of 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 Head of the Special Investigation Service, the first Deputy or a deputy if the Head of the Special Investigation Service, an employee of the State Inspector Service or his/her family member, the state bodies shall take actions provided for by law to protect his/her/their personal safety and property.

4. An employee of the Special Investigation 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 Special Investigation Service shall inform the Head of the Special Investigation Service in the case of receiving an obviously unlawful order or instruction.

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

7. A person who has issued an obviously unlawful order or instruction to an employee of the Special Investigation Service



shall be held liable as prescribed by law.

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

9. An employee of the Special Investigation 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 Head of the Special Investigation Service. An employee of the Investigation Division of the Special Investigation Service may wear the uniform of a form determined by a normative act of the Head of the Special Investigation Service.

10. The security of an arrested, detained or convicted employee of the Investigation Division of the Special Investigation 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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 25 – Social Protection of employees of the Special Investigation Service with a special rank

1. Social protection of employees of the Special Investigation Service with a special rank shall be provided by the State.

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 Special Investigation Service with a special rank.

3. Employees of the Special Investigation 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 Special Investigation 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 Special Investigation 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 Head of the Special Investigation Service and other legislative and subordinate normative acts of Georgia.

6. An employee of the Special Investigation 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 Special Investigation Service with a special rank (including the circle of family members) shall be defined by the Head of the Special Investigation Service.

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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 26 – Special ranks of employees of the Special Investigation Service

Special ranks of employees of the Special Investigation 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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Chapter VI – Transitional and Final Provisions

Article 27 – (Deleted)

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 27¹ – Cancellation of the State Inspector Service and the State Inspector's position and the consequences thereof

1. As of 1 March 2022, the State Inspector Service and the State Inspector's position shall be cancelled. As of 1 March 2022, the State Inspector, his/her first deputy and deputies shall be dismissed from their positions.

2. Employees of the Investigation Department of the State Inspector Service holding their positions on 22 December 2021 shall be appointed as of 1 March 2022, based on their written consent, by the Head of the Special Investigation Service to the positions equivalent to their positions at the Special Investigation Service, maintaining their official salaries they had on 22 December 2021. If an employee of the Investigation Department of the State Inspector Service fails to submit his/her written consent to the State Inspector Service through 20 February 2022, the mobility procedure defined by the Law of Georgia on Public Service shall not apply to him/her as of 1 March 2022. Such persons shall not have the right to request restoration to the positions equivalent to their positions/the workplaces equivalent to their workplaces after 28 February 2022. They may be transferred to the reserve of officers as of 1 March 2022 according to law.



3. Employees of the Public Sector Supervision Department, the Law Enforcement Supervision Department, and the Private Sector Supervision Department, and an adviser in Personal Data Protection Issues of the State Inspector's Service holding their positions on 22 December 2022 shall be appointed as of 1 March 2022 by the Head of the Personal Data Protection Service, based on their written consent, to the positions equivalent to their positions at the Personal Data Protection Service, maintaining their official salaries they had on 22 December 2021. If any of the aforementioned employees of the State Inspector Service fails to submit his/her written consent to the State Inspector Service through 20 February 2022, the mobility procedure defined by the Law of Georgia on Public Service shall not apply to him/her as of 1 March 2022. Such persons shall not have the right to request restoration to the positions equivalent to their positions/the workplaces equivalent to their workplaces after 28 February 2022. They may be transferred to the reserve of officers as of 1 March 2022 according to law.

4. Employees of the Department of Information Technologies and Monitoring, Administrative Department, Legal Department, International Relations, Analytics and Strategic Development Department, the Department of Economy, the Department of Public Relations, and General Inspection (Department) of the State Inspector Service holding their position on 22 December 2022 shall be appointed by the Head of the Special Investigation Service/the Head of the Personal Data Protection Service as of 1 March 2022, according to the will they have expressed in their written consent, to the positions equivalent to their positions at the Special Investigation Service or the Personal Data Protection Service, maintaining their official salaries they had on 22 December 2021. If any of the aforementioned employees of the State Inspector Service fails to submit his/her written consent to the State Inspector Service through 20 February 2022, the mobility procedure defined by the Law of Georgia on Public Service shall not apply to him/her as of 1 March 2022. Such persons shall not have the right to request restoration to the positions equivalent to their positions/the workplaces equivalent to their workplaces after 28 February 2022. They may be transferred to the reserve of officers as of 1 March 2022 according to law.

5. The Head of the Special Investigation Service and the Head of the Personal Data Protection Service shall, as of 1 March 2022, under the legislation of Georgia, approve the statutes of these services, their staff lists, the remuneration procedures and amounts, and define the structures of the aforementioned services, and powers of the structural units and employees. In addition, the Head of the Special Investigation Service and the Head of the Personal Data Protection Service, when issuing appropriate legal acts, including when approving the staff lists of employees, shall consider the number of persons to be appointed on the basis of paragraph 4 of this article and this paragraph, and other circumstances necessary for the appointment of the aforementioned persons to the positions equivalent to their current positions.

6. The Government of Georgia shall ensure the implementation of measures required for administering, as of 1 March 2022, the property that had been on the balance sheet of the State Inspector Service before 1 March 2022 and the documentation that belonged to the Service. The Government of Georgia shall be authorised to ensure, as of 1 March 2022, the direct transfer of a part of that property and documentation to the Personal Data Protection Service, and transfer of the other part of the aforementioned property and documentation to the Special Investigation Service. The procedure for implementing the measures provided for by this paragraph shall be established by the Government of Georgia.

7. Private-law and administrative transactions concluded with the State Inspector Service shall be cancelled as of 1 March 2022. The procedure for fulfilling liabilities arisen as a result of termination of such transactions shall be established by the Government of Georgia according to law.

8. If powers of the State Inspector are prematurely terminated before 1 March 2022, a competition for the selection of the State Inspector shall not be conducted and the State Inspector shall not be elected.

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

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 28¹ – Measures to be implemented during the transitional period

1. Before the first election of the Head of the Special Inspection Service, candidates for the Head of the Special Inspection Service shall be selected and nominated to the Parliament of Georgia in accordance with Article 6¹ of this Law, adhering to the following time limits:

a) the Prime Minister of Georgia shall announce a competition for the selection of the Head of the Special Investigation Service, and the agencies and institutions defined by Article 6¹(2) shall communicate to the Prime Minister of Georgia the names of the members of the competition commission for the selection of the Head of the Special Investigation Service within 1 week after this article becomes effective;

b) the Prime Minister of Georgia shall set up the competition commission for the selection of the Head of the Special Investigation Service and shall convene the first session of the competition commission within 2 weeks after this article becomes effective;

c) where a repeated competition is announced under Article 6¹(6) of this Law, the time limits set by subparagraphs (a) and (b) of this paragraph shall remain in force and they shall start to run from the moment when the repeated competition is announced.

2. If the Parliament of Georgia elects the Head of the Special Investigation Service from among the candidates nominated to it in accordance with paragraph 1 of this article and Article 6¹ of this Law before 1 March 2022, the term of office of the newly elected Head of the Special Investigation Service shall commence as of 1 March 2022. If the Parliament of Georgia elects the Head of the Special Investigation Service from among the aforementioned candidates after 1 March 2022, the term of office of the newly elected Head of the Special Investigation Service shall commence on the day following his/her election.

3. The relevant bodies/officials shall, immediately but not later than 1 April 2022, adopt/issue the subordinate normative acts required for the execution of this Law.

4. The Government of Georgia shall, before 1 April 2022, ensure the implementation of measures required for the provision of the Special Investigation Service with necessary property.

5. Activities of the Special Investigation Service in 2022 shall be funded under the programme code (51 00) approved by the Law of Georgia on the State Budget for the State Inspector Service.

6. The annual report of the Special Investigation Service provided for by Article 12 of this Law shall not be presented to the Parliament of Georgia in 2022.

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

Article 29 – Jurisdiction of the proceedings conducted before 1 March 2022

As of 1 March 2022, the Special Investigation Service shall be defined as a body exercising investigative powers over cases of crimes falling within the jurisdiction of the State Inspector Service.

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

Law of Georgia No 1312 of 30 December 2021 – website, 13.1.2022

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.

2¹. 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- ႁႁ

