

LAW OF THE REPUBLIC OF ARMENIA

Adopted on 22 October 2007

ON OPERATIONAL INTELLIGENCE ACTIVITY

CHAPTER 1

GENERAL PROVISIONS

ARTICLE 1

SUBJECT OF REGULATION OF THE LAW

The present Law regulates legal relations arising in the sphere of carrying out operational intelligence activity. The Law defines the concept of operational intelligence activity, tasks, principles, operational intelligence bodies, their rights and responsibilities while carrying out operational intelligence activity, types of measures of operational intelligence activity, control and monitoring of operational intelligence activity.

ARTICLE 2

LEGAL ACTS REGULATING OPERATIONAL INTELLIGENCE ACTIVITY

1. The legislation on operational intelligence activity comprises the Constitution of the Republic of Armenia, the Criminal Procedure Code of the Republic of Armenia, the Customs Code, laws of the Republic of Armenia on Prosecution, National Security Bodies, Police, Penitentiary Service, Tax Service, the present Law, other legal acts as well as the international treaties of the Republic of Armenia.
2. The practice of planning and carrying out operational intelligence activity is regulated by normative legal acts of bodies carrying out operational intelligence activity.

ARTICLE 3

CONCEPT OF OPERATIONAL INTELLIGENCE ACTIVITY

Operational intelligence activity is the implementation of operational intelligence measures by bodies carrying out operational intelligence activities as prescribed by law, aimed at protecting the rights and freedoms of individuals and citizens, state and public safety from unlawful infringements.

ARTICLE 4

OBJECTIVES OF OPERATIONAL INTELLIGENCE ACTIVITY

1. Objectives of operational intelligence activity are:
 - 1) detection, disclosure, prevention and preclusion of crimes;
 - 2) detection of persons planning, committing or having committed a crime;
 - 3) search for and detection of persons escaping criminal liability, as well as search for missing persons;
 - 4) detection of witnesses, corpse, traces of crime, objects, material evidence and other items and documents;
 - 5) acquisition of information essential for ensuring national security;
 - 6) preclusion and disclosure of smuggling and illicit transmission of means of transport through the customs border of the Republic of Armenia;
 - 7) premonition, detection, prevention and disclosure of violations of tax legislation;
 - 8) provision of smooth functioning of penitentiaries, premonition, prevention and disclosure of crimes planned at penitentiary institutions;
 - 9) existence of conditions threatening the safety of persons subject to special state protection, as well as instructions related to elimination of circumstances threatening the safety of persons subject to special state protection and issued, within the framework of powers vested in them by Law, by a body carrying out special state protection and addressed to operational intelligence bodies;
 - 10) collection of information to decide on granting permits to deal with information that comprises state and official secret;
 - 11) collection of information to ensure the safety of officers of bodies carrying out operational intelligence activities as well as persons (and members of their families) who cooperate or have cooperated with such bodies;
 - 12) collection of information to grant permits by the police to stay in border zone in accordance with the law;
 - 13) collection of information to grant permits by border forces to enter and stay in borderland in accordance with the law;
 - 14) collection of information to decide on granting permits to participate in operational intelligence activity or give access to materials obtained as a result of carrying out such activity;
 - 15) collection of information to examine individuals applying for work in national security bodies and the police as well as, in cases prescribed by law, in other state bodies;
 - 16) collection of information to give opinion and decide on granting Armenian citizenship, political asylum or residence status in the Republic of Armenia to foreign citizens or stateless persons.

ARTICLE 5
PRINCIPLES OF OPERATIONAL INTELLIGENCE ACTIVITY

Operational intelligence activity is carried out on the basis of the following fundamental principles:

- 1) legality;
- 2) protection and rule of rights, freedoms and legitimate interests of individuals and citizens;
- 3) combination of apparent and secret methods and techniques of operation;
- 4) confidentiality of information on officers, manners of operation, methods, forces and means of bodies carrying out operational intelligence activity;
- 5) completeness, comprehensiveness and impartiality of operational intelligence activity.

ARTICLE 6
PUBLICITY OF MATERIALS AND DOCUMENTS ACQUIRED AS A RESULT OF OPERATIONAL
INTELLIGENCE MEASURES

1. Any person - within a period of three months after the denial to institute a criminal case or termination of a criminal case against him/her as a result of absence of incident of crime or *corpus delicti* in his/her conduct, or after the caused damage is deemed lawful under the criminal law, or his acquittal - shall be entitled to demand from bodies carrying out operational intelligence activity materials and documents acquired as a result of operational intelligence measures.
2. Provision of these materials and documents shall be denied should it pose a threat of disclosure of state or official secret, or when the provision thereof may disclose secret staff officers of bodies carrying out operational intelligence activity and persons that have secretly cooperated or cooperate with these bodies.
3. If a person, in cases and within the period referred to in part 1 of this Article, does not request materials and documents acquired as a result of operational intelligence measures carried out in his/her regard, these materials and documents shall be destructed.
4. Materials referred to in part 2 of this Article shall be destructed within three months after the denial to institute a criminal case against him/her or termination of a criminal case against a person as a result of absence of incident of crime or *corpus delicti* in his/her conduct, or after the caused damage is deemed lawful under criminal law, or his/her acquittal.

ARTICLE 7
SPECIAL TECHNICAL MEANS

1. The list of special technical means used during operational intelligence measures shall be approved by the Government of the Republic of Armenia upon submission by the authorised state body.

2. Special technical means used during operational intelligence measures shall not harm human life and health as well as the environment.

3. The use of special technical and other means specified (developed, planned, adjusted) for acquiring confidential information and conducting operational intelligence measures by state authorities, departments or natural and legal persons not authorised under this Law shall be prohibited.

CHAPTER 2

BODIES CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

ARTICLE 8

BODIES CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

1. The following bodies are entitled to carry out operational intelligence activity within the framework of authority vested in them by law:

- 1) the police,
- 2) national security bodies,
- 3) tax authorities,
- 4) customs authorities, with an objective to preclude and disclose smuggling and other crimes,
- 5) penitentiary service – only in penitentiaries.

2. The structure of bodies referred to in part 1 of this Article shall comprise relevant departments entitled to conduct operational intelligence measures. The structure and subordination of these departments as well as the procedure of organisation of work and documentation of operational intelligence measures are determined by the head of operational intelligence body.

3. When carrying out their activity, officers of operational departments are guided by law and accountable to their immediate superior. When receiving an order or instruction, the officer of the operational department shall, in case of doubts regarding the lawfulness of the received order or instruction, immediately report in writing to the issuer of the order or instruction or the superior of the latter or their substitute. If the issuer of instruction confirms in writing the given order or instruction, the officer of the operational department shall execute it, unless the given order or instruction results in criminal liability prescribed by law. The person who has confirmed in writing the order or instruction bears responsibility for the execution thereof by the officer of the operational department.

4. Officers of bodies carrying out operational intelligence activity may, in accordance with the procedure prescribed by jointly adopted agency normative legal acts, cooperate when conducting operational intelligence measures prescribed by this Law.

5. Bodies carrying out operational intelligence activity are financed by the state budget.

ARTICLE 9

SERVICE FUNCTIONING WITHIN THE SYSTEM OF THE REPUBLICAN NATIONAL SECURITY BODY OF THE REPUBLIC OF ARMENIA

1. Conducting of operational intelligence measure of wiretapping shall, in accordance with the procedure prescribed by this Law, be ensured only by the service functioning within the system of the republican national security body of the Republic of Armenia (hereinafter referred to as the Service) upon motion of the body authorised to conduct such operational intelligence measure.

2. The overall management of the Service is carried out by the head of the republican national security body of the Republic of Armenia. Direct governance of the Service is carried out by the head of the Service, appointed and released from office by the President of the Republic of Armenia upon nomination by the head of the republican national security body. The position of the head of the Service belongs to the group of the highest positions in national security bodies.

The head of the republican national security body, upon nomination by the head of the Service, makes appointments in the positions of the Service to which military ranks are attached (except for the rank of the warrant officer) and gives ranks to these officers.

3. The head of Service makes appointments in the positions of the Service to which military ranks are attached and gives ranks to these officers.

4. The Statute and structure of the Service, number of officers and civil staff are confirmed by the President of the Republic of Armenia upon submission by the head of the republican national security body of the Republic of Armenia.

5. The Service provides telecommunication operators with necessary operational-technical facilities to carry out operational intelligence measure of wiretapping by the bodies authorised by this Law.

ARTICLE 10

RIGHTS OF BODIES CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

1. While exercising their tasks, bodies carrying out operational intelligence activity are entitled to:

- 1) carry out measures provided for in Article 14 of this Law using apparent or secret methods;
- 2) cooperate - with remuneration or gratuitously, with or without signing a contract - with persons who have expressed readiness to cooperate secretly with bodies carrying out operational intelligence activity;
- 3) use buildings, vehicles, special and other technical means belonging to the officials of the bodies carrying out operational intelligence activity, as well as to the bodies themselves.

With the purpose of exercising the tasks defined by this Law, national security bodies and the police may, in accordance with the legislation of the Republic of Armenia, create non-existent organisations, as well as use cover documents made by national security bodies.

2. Operational intelligence measures may, in accordance with the procedure prescribed by this Law, be carried out upon inquiries from law enforcement authorities and special services of foreign

countries and international law enforcement organisations in accordance with international treaties of the Republic of Armenia.

3. Bodies carrying out operational intelligence activity shall not exercise the rights provided for by this Article in favour or to the detriment of any natural or legal person or interfere with the activities of state or local self-government bodies or political parties.

ARTICLE 11

RESPONSIBILITIES OF BODIES CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

1. Bodies carrying out operational intelligence activity shall:

- 1) execute mandatory written assignments of the investigator, tasks assigned by the inquest body, mandatory written assignments issued by the prosecutor and decisions of the investigator and the court on carrying out necessary operational intelligence measures;
- 2) cooperate, in accordance with international treaties of the Republic of Armenia, with international law enforcement organisations and law enforcement authorities and special services of foreign countries;
- 3) protect the staff of operational departments, persons secretly cooperating with them, persons participating in criminal proceedings, as well as members of their families from criminal infringements;
- 4) when exercising their powers, cooperate with law enforcement authorities communicating to them the information relating to the competence of such authorities, except for the information which is subject to destruction under this Law.

ARTICLE 12

PERSONS COOPERATING WITH BODIES CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

1. Adult and capable persons may be involved in preparation and implementation of operational intelligence measures, free of charge or for pay on the basis of a contract, maintaining the confidentiality of the cooperation. Cooperation is possible with the consent of these persons. These persons shall not make public any information obtained with regard to the cooperation as well as provide obviously false information to bodies carrying out operational intelligence activity.

The bodies carrying out operational intelligence activity shall keep the confidentiality of the personal data of persons secretly cooperating with them.

2. The procedure of recruiting, involving and paying the persons secretly cooperating with bodies carrying out operational intelligence activity is laid down in the normative legal acts of these bodies.

3. Bodies carrying out operational intelligence activity are not entitled to involve the following persons as cooperating person in preparation and implementation of operational intelligence measures:

- 1) members of parliament;
- 2) ministers;

3) judges;

4) officers of national security bodies, the police, armed forces and penitentiaries, except for involvement in view of carrying out counterintelligence activity as prescribed by law, as well as officers of the Prosecutor's office and operational departments of other bodies carrying out operational intelligence activity.

ARTICLE 13

SAFETY AND SOCIAL PROTECTION OF OFFICERS OF OPERATIONAL DEPARTMENTS AS WELL AS PERSONS COOPERATING WITH OPERATIONAL INTELLIGENCE BODIES, MEMBERS OF THEIR FAMILY AND THEIR DEPENDANTS

1. Persons cooperating with bodies carrying out operational intelligence activity are exempt from criminal liability for committing a crime, as prescribed by law.

2. Bodies carrying out operational intelligence activity shall ensure protection of persons involved in preparation and implementation of operational intelligence measures and their family members in case of a real threat to their life and health, arising from their cooperation with these bodies.

3. Persons cooperating with operational intelligence bodies as well as persons having contributed to the disclosure of crimes and detection of criminals may receive monetary and other awards. The sums of these awards are not subject to tax or declaration.

4. In case a person secretly cooperating with bodies carrying out operational intelligence measures dies as a consequence of participation in operational intelligence measures, family members and dependants thereof shall get a lump-sum benefit from the state budget at the rate of ten years' amount of monthly monetary remuneration of the deceased and shall be granted a pension for the loss of bread-winner, as prescribed by law. If a person was injured, maimed, got contusion or disability in aforementioned circumstances, he/she shall be paid a lump-sum benefit from the state budget at the rate of five years' amount of the monthly remuneration and shall be granted disability pension, as prescribed by law.

5. Service period of officers of operational intelligence bodies carrying out specific tasks in organised criminal groups, as well as the period of service as permanent secret collaborator is included into the period of general service in the bodies carrying out operational intelligence activity by preferential calculation; the ways and conditions of calculation thereof are prescribed by the Government of the Republic of Armenia.

CHAPTER 3
OPERATIONAL INTELLIGENCE MEASURES

ARTICLE 14
TYPES OF OPERATIONAL INTELLIGENCE MEASURES

1. The following operational intelligence measures may be conducted during operational intelligence activity:

- 1) operational inquiry;
- 2) acquisition of operational information;
- 3) collection of samples for comparative examination;
- 4) control purchase;
- 5) controlled supply and purchase;
- 6) examination of items and documents;
- 7) external surveillance;
- 8) internal surveillance;
- 9) identification of a person;
- 10) examination of buildings, structures, locality, premises and means of transport;
- 11) interception of correspondence, postal, telegram and other communications;
- 12) wiretapping;
- 13) operational penetration;
- 14) operational experiment;
- 15) ensuring access to financial data and secret monitoring of financial transactions;
- 16) imitation of taking and giving bribes.

Operational intelligence measures shall be defined only by law.

2. The police is entitled to carry out operational intelligence measures laid down in points 1, 2, 3, 5, 6, 7, 8, 9, 10 11, 12, 13, 14, 15, and 16 of part 1 of this Article.

3. National security bodies are entitled to conduct operational intelligence measures laid down in points 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of part 1 of this Article.

4. Customs authorities are entitled to carry out operational intelligence measures laid down in points 1, 2, 3, 5, 6, 7, 8, 9, 13 and 14 of part 1 of this Article.

5. Tax authorities are entitled to carry out operational intelligence measures laid down in points 1, 2, 3, 4, 5, 6, 7, 10, 13 and 14 of part 1 of this Article.

6. Penitentiary authorities are entitled to carry out operational intelligence measures laid down in points 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of part 1 this Article, only in pre-trial detention facilities and corrective institutions of the penitentiary system of the Ministry of Justice of the Republic of Armenia.

ARTICLE 15
OPERATIONAL INQUIRY

Inquiry is the collection of information on circumstances of crimes committed, planned or being committed, as well as on circumstances to be clarified during operational intelligence activity by way of asking questions to legal or natural persons who actually possess or are supposed to possess such information.

ARTICLE 16
ACQUISITION OF OPERATIONAL INFORMATION

Acquisition of operational information is the collection of data concerning persons and facts of operational concern for the purposes of operational intelligence activity.

ARTICLE 17
COLLECTION OF SAMPLES FOR COMPARATIVE EXAMINATION

Collection of samples for comparative examination is the collection (acquisition) of corresponding materials, objects, items, documents and other samples to carry out required comparison and examination.

ARTICLE 18
CONTROL PURCHASE

Control purchase is carried out to verify compliance with the legislation ensuring uniformity of standardisation and metrology and tax accounting rules as well as to take samples for further investigation, to disclose the actual price of goods, services and works.

ARTICLE 19
CONTROLLED SUPPLY AND PURCHASE

1. Controlled supply and purchase is the control of circulation of goods and services, including for the purpose of disclosing the participants of a crime through purchase of goods and services and the sale thereof.
2. Controlled supply and purchase of items, goods and products - the free realisation of which is prohibited or circulation of which is restricted - shall be carried out by the decision of the head of operational intelligence body.

ARTICLE 20
EXAMINATION OF ITEMS AND DOCUMENTS

Examination of items and documents is the observation thereof, disclosure of their qualities and content with or without use of technical means, as well as corroboration of investigation results with or without use of video recording, audio recording, photographic, electronic and other means. While carrying out the examination and afterwards, preservation of articles and the traces on them shall be ensured.

ARTICLE 21
EXTERNAL SURVEILLANCE

External surveillance is the tracing of persons without violating the inviolability of the residence, or monitoring of the course of specific incidents and events in open areas or public places with or without use of special and other technical means as well as the corroboration of surveillance results with or without use of video recording, photographic, electronic and other means.

ARTICLE 22
INTERNAL SURVEILLANCE

1. Internal surveillance is the tracing of a person (persons) inside the residence with or without use of special and other technical means and monitoring of certain incidents and events as well as the corroboration of surveillance results with or without use of video recording, audio recording, photographic, electronic and other means.

2. In this Law the term “residence” is used in the meaning defined in the Criminal Procedure Code of the Republic of Armenia.

ARTICLE 23
IDENTIFICATION OF A PERSON

Identification of a person is the verification of a person's identity for operational intelligence purposes based on external signs, fingerprints and other criminological traces.

ARTICLE 24
EXAMINATION OF BUILDINGS, STRUCTURES, PREMISES, LOCALITY AND MEANS OF
TRANSPORT

Examination of buildings, structures, premises, locality, means of transport is the external observation thereof, disclosure of traits and other information with or without use of special and other technical

means, as well as corroboration of examination results with or without use of video recording, audio recording, photographic, electronic and other means.

ARTICLE 25
INTERCEPTION OF CORRESPONDENCE, POSTAL, TELEGRAM AND OTHER
COMMUNICATIONS

Interception of correspondence, postal, telegram and other communications, including fax messages, with or without use of technical means, is the examination of transmitted letters, postal, telegram and other communications, including their content, and corroboration of their results as well as identification of the sender of the letter, postal, telegram and other communications through the handwriting of the sender or using other technical means.

ARTICLE 26
WIRETAPPING

Wiretapping is the secret monitoring of conversations, including internet telephone conversations and electronic communication, carried out using special and other technical means, which means:

1. in case of fixed telephony:

- a) recording of telephone conversation or corroboration of its content in any other form;
- b) calling line identification;
- c) collecting and/or corroborating the data necessary to disclose the personal data of the telephone line subscriber, location and movement of communicating persons at the beginning of or during the telephone conversation;
- d) in case of call forwarding or transferring, identification of the telephone line to which the call was transferred;

2. in case of mobile telephony:

- a) recording telephone conversation, including short messages (SMS) or voice messages or corroborating their content in any other form;
- b) collecting and/or corroborating the data necessary to disclose the date of the beginning of the telephone conversation, its beginning and end, telephone line, personal data of the telephone line subscriber, location and movement of communicating persons at the beginning of the telephone conversation and during it;

3. in case of Internet communication, including Internet telephone conversations and electronic messages transferred over the Internet, recording of messages or corroborating its content in any other form, as well as data through which it is possible to identify:

- a) geographic location, day, hour and duration of connecting to and disconnecting from the Internet, including IP (Internet Protocol) address;
- b) name of the Internet user or the subscriber and user ID;

c) telephone line through which the user is connected to common telephone network, Internet address, name of the Internet connected line or any data on facts, events, circumstances concerning that person in the form which enables or may enable to establish his/her identity.

ARTICLE 27 OPERATIONAL PENETRATION

Operational penetration is the secret penetration of members of secret staff of operational intelligence bodies as well as of persons secretly cooperating therewith into certain bodies, organisations or groups.

ARTICLE 28 OPERATIONAL EXPERIMENT

Operational experiment is the examination of possibility of occurring particular incidents under certain circumstances by reproducing the circumstances or part of the circumstances subject to clarification during operational intelligence activity.

ARTICLE 29 ENSURING ACCESS TO FINANCIAL DATA AND SECRET MONITORING OF FINANCIAL TRANSACTIONS

Ensuring access to financial data and secret monitoring of financial transactions is the acquisition of information on bank and other type of accounts (deposits) from banks or other financial institutions, as well as constant monitoring of financial transactions without the knowledge of persons engaged therein.

ARTICLE 30 IMITATION OF TAKING OR GIVING BRIBES

1. Imitation of taking or giving bribes, as an operational intelligence measure, may be carried out only for the disclosure of the crime of taking and giving bribes based exclusively on the written statement of the person who was offered to take or give a bribe.
2. The concepts "take bribes" and "give bribes" referred to in part 1 of this Article are used in this Law in the meaning defined in the Criminal Code of the Republic of Armenia.
3. The results of operational intelligence measure referred to in part 1 of this Article are corroborated exclusively through video or audio recording. Moreover, video or audio recording in the place of residence of a person is carried out exclusively by a court decision.

CHAPTER 4
REQUIREMENTS TOWARDS THE PROCEDURE OF CARRYING OUT OPERATIONAL
INTELLIGENCE MEASURES. MONITORING AND CONTROL OVER OPERATIONAL
INTELLIGENCE ACTIVITY

ARTICLE 31
GENERAL REQUIREMENTS TOWARDS CARRYING OUT OPERATIONAL INTELLIGENCE
MEASURES

1. Wiretapping by the police or bodies of penitentiary service is conducted through creating operational-technical conditions by the Service, including provision of communication channels and means, by direct control and corroboration of data, information and communications obtained by the police or bodies of penitentiary service, excluding control and/or corroboration of data, information and communications by national security bodies and the Service.
2. The police or bodies of penitentiary service shall conduct interception of communications, international correspondence, postal, telegram and other communications transmitted over the Internet, for the purpose of which the national security bodies shall provide them with operational-technical facilities, including communication channels and means, by direct control and corroboration of data, information and communications acquired by the police or bodies of penitentiary service, excluding control and/or corroboration of data, information and communications by national security bodies.
3. The police or bodies of penitentiary service are entitled to conduct interception of correspondence, postal, telegram and other communications except for transmission of international correspondence, postal, telegram and other communications, both by themselves and using communication means provided by national security bodies, as laid down in part 2 of this Article.
4. Operational intelligence measures laid down in points 8, 11, 12 and 15 of part 1 of Article 14 of this Law may be conducted only in case the person, with respect to whom the measure is to be conducted, is suspected of committing a grave and particularly grave crime and if there is substantiated evidence that it is impossible for the body carrying out operational intelligence activity in any other manner to acquire information required for the fulfilment of the tasks conferred thereon by this Law.
5. When carrying out operational intelligence measures laid down in point 12 of part 1 of Article 14 of this Law, telecommunication and postal organisations shall upon the request of the Service provide technical facilities and create other conditions necessary for carrying out operational intelligence measures.
6. When carrying out operational intelligence measures laid down in point 11 of part 1 of Article 14 of this Law, telecommunication and postal organisations shall, upon the request of national security bodies as well as the police and penitentiary authorities, in cases laid down in part 3 of this Article,

provide technical facilities and create other conditions necessary for carrying out operational intelligence measures.

7. It is prohibited to carry out operational measures laid down in points 8, 11 and 12 of part 1 of Article 14 of this Law, if a person, with respect to whom the measure concerned is to be carried out, is communicating to his/her lawyer. Information containing lawyer's secret - obtained in the process of carrying out operational intelligence measures referred to in points 8, 11 and 12 of part 1 of Article 14 by reasons not related to the objective of carrying out operational intelligence - shall be immediately destructed.

ARTICLE 32

PROCEDURE OF CONDUCTING OPERATIONAL INTELLIGENCE MEASURE OF WIRETAPPING

1. Authorities including national security bodies entitled to carry out operational intelligence measure of wiretapping shall, in order to carry out wiretapping, submit the extract of decision of the court to the Service, and in cases laid down in part 3 of this Article submit the decision of the head of operational intelligence body on conducting operational intelligence measures. The extract shall be provided by the court together with the decision on aforementioned operational intelligence activity and shall contain only the line subject to wiretapping.

2. Where delay in conducting operational intelligence measures as prescribed by this Article may result in an act of terrorism or in events or actions threatening the state, military or environmental safety of the Republic of Armenia, the Service shall ensure the implementation of these measures, as prescribed by this Article; however, the body applying to the Service for carrying out such operational intelligence measures shall within 48 hours submit to the Service the extract of the decision of the court authorising or denying authorisation to carry out such measures.

3. In case of failure to submit to the Service the extract of the decision of the court within 48 hours as provided for in part 3 of this Article or in case of submitting the decision of the court denying authorisation to carry out operational intelligence measures laid down in this Article, such activity shall be immediately terminated, and information and materials already acquired shall be immediately destructed by the authority carrying out the measure. The head of the Service immediately reports to the President of the Republic of Armenia on each case laid down in this part.

4. The head of the Service shall submit to the President of the Republic of Armenia an annual report on each body authorised to carry out operational intelligence measures no later than January 31 of the next year which will contain the following information for the previous year:

- 1) total number of motions submitted to the Service for carrying out operational intelligence measures laid down in this Article;
- 2) number of motions brought without the extract of court decision, for which the extract was not submitted later;
- 3) number of motions brought without the extract of court decision, for which the court later denied authorisation to carry out such operational intelligence measures.

ARTICLE 33

DIRECT MONITORING OVER CARRYING OUT OPERATIONAL INTELLIGENCE ACTIVITY

Direct monitoring over carrying out operational intelligence measures laid down in this Law is exercised by the official who has made a decision on conducting these measures, which holds personal liability for the lawfulness of carrying out operational intelligence measures.

ARTICLE 34

JUDICIAL CONTROL OVER OPERATIONAL INTELLIGENCE ACTIVITY

1. Operational intelligence measures laid down in points 8, 11, 12, 15, and 16 of part 1 of Article 14 of this Law, as well as operational intelligence measure of external surveillance may be conducted only by authorisation of the court when, in the latter case, it is not possible to corroborate the results of external surveillance without application of technical means and the person (persons) with respect to whom external surveillance is carried out is (are) not able to reasonably assume the possibility of carrying out such surveillance.
2. For obtaining the authorisation of the court to carry out operational intelligence measures laid down in this Article, the head of operational department shall submit to the head of operational intelligence body the decision on conducting operational intelligence measure as well as the motion to the court for conducting operational intelligence measure. The decision and the materials attached thereto are submitted to the court by the head of operational intelligence body, as prescribed by the Criminal Procedure Code of the Republic of Armenia.
3. If the delay in carrying out operational intelligence measures may result in an act of terrorism or events or actions threatening the state, military or environmental safety of the Republic of Armenia, and for carrying out of which court's authorisation is mandatory under this Law, implementation of such measures within 48 hours is permitted based on the decision of the head of operational intelligence body through notifying the court, as prescribed by the Criminal Procedure Code of the Republic of Armenia. If the court does not deem the grounds for conducting operational intelligence measures to be sufficient, the conducting thereof is immediately terminated and the information and materials acquired as a result thereof are immediately destroyed. Otherwise the court issues a decision authorising to carry out operational intelligence measures. The provisions of this part do not apply to operational intelligence measures laid down in point 16 of part 1 of Article 14 of this Law and to the relations laid down in Article 32.

ARTICLE 35
PROSECUTIONAL MONITORING OVER
OPERATIONAL INTELLIGENCE ACTIVITY

1. When exercising procedural governance over investigation and inquest, the prosecutor carries out monitoring over the lawfulness of operational intelligence activity within the limits of powers vested in him/her by law. Means of organisation and implementation of operational intelligence activity are not subject to monitoring by the prosecutor.
2. When implementing powers laid down in part 1 of this Article, heads of operational intelligence bodies shall, upon the request of the prosecutor, communicate to the latter the documents which serve as a ground for these activities as well as other necessary information. The prosecutor shall ensure the confidentiality of the documents and information communicated by bodies carrying out operational intelligence activity.
3. Information with regard to the staff of bodies carrying out operational intelligence activity and persons secretly cooperating with these bodies shall be communicated to the prosecutor only by consent of these persons except for the cases when the issue of their criminal liability arises.

CHAPTER 5
DECISION ON CONDUCTING OPERATIONAL INTELLIGENCE MEASURE

ARTICLE 36
GROUNDS FOR DECISION ON CONDUCTING
OPERATIONAL INTELLIGENCE MEASURES

1. Operational intelligence measures are conducted on the basis of decision of the head of operational department of the operational intelligence body on conducting operational intelligence activity except for the cases prescribed by this Law.
2. Grounds for making a decision on conducting operational intelligence activity are written instructions of the prosecutor, decisions of the investigator, inquest body and the court on conducting operational intelligence activity on criminal cases in their proceedings, as well as substantiated motion of the officer of operational department on granting authorisation to conduct operational intelligence measures.

ARTICLE 37

SUBSTANTIATED MOTION OF THE OFFICER OF OPERATIONAL DEPARTMENT ON GRANTING AUTHORISATION TO CONDUCT OPERATIONAL INTELLIGENCE MEASURE AND THE PROCEDURE OF CONSIDERATION THEREOF

1. Substantiated motion of the officer of operational department on granting authorisation to conduct operational intelligence measures shall include:
 - 1) such operational intelligence measure (measures) which is (are) to be conducted;
 - 2) grounds for conducting operational intelligence measure (measures);
 - 3) circumstances substantiating the need to conduct such measure;
 - 4) information, materials or documents which are expected to be acquired as a result of such measure;
 - 5) place, beginning and end of conducting measure or measures;
2. The motion on conducting operational intelligence measure referred to in point 12 of part 1 of Article 14 of this Law shall also include the line (lines) which is/are to be tapped;
3. The motion on conducting operational intelligence measure referred to in point 11 of part 1 of Article 14 of this Law shall also include the postal address or electronic address to be intercepted, keywords or key phrases representing search interest (for interception of mailing and other types of communication in case of absence of postal or electronic address or of keywords or key phrases representing search interest, sample of handwriting or other specifics, sufficient for identification of the person, whose correspondence, postal, telegram or other types of communication shall be intercepted, may be submitted).
4. The motion on conducting operational intelligence measure referred to in point 15 of part 1 of Article 14 of this Law shall also contain data on bank account (deposit) and on financial transactions to be monitored, as well as personal data of persons the transactions relate to or the bank account belongs to.
5. Together with the motion to conduct operational intelligence measure laid down in point 16 of part 1 of Article 14 of this Law, the statement of the corresponding person with regard to the offer to take or give a bribe shall also be submitted.
6. To verify the sufficiency of the grounds for conducting operational intelligence measure, the head of operational department may require explanations and other additional materials from the officer of operational department who has made the motion.
7. The motion is discussed by the head of operational department with the participation of the officer who has made the motion. After the discussion of the issue the head of operational department makes a decision on granting authorisation or rejecting the motion mentioning in the decision the grounds for satisfying or rejecting the motion.
8. In cases when the delay of an operational intelligence measure may result in an act of terrorism or events or actions threatening the state, military or environmental safety of the Republic of Armenia

are possible, it is allowed to carry out such measures by notifying the head of operational department within six hours.

If the head of operational department does not find the grounds for conducting operational intelligence activity to be sufficient, such activity shall be immediately terminated and the information and materials acquired thereof shall be immediately destroyed. Otherwise, the head of operational department, after being informed, shall decide within an hour to grant authorisation to conduct operational intelligence measure. The provisions of this part do not apply to operational intelligence measure of wiretapping, as well as the relations arising during operational intelligence measures that may be conducted by a court authorisation only.

ARTICLE 38

DECISION ON CONDUCTING OPERATIONAL INTELLIGENCE MEASURE

1. The decision on conducting operational intelligence measure shall include information referred to in parts 1, 2 and 3 of Article 36; it shall also include the name, family name and position of the head of the department who has made the decision, the persons covered by the measure, the name, family name and position of the officer of operational department authorised to execute the decision.

2. Operational intelligence body is not entitled to perform actions that are not provided for in a decision on conducting operational intelligence measure.

3. If during an operational intelligence measure information, materials and documents are acquired relating to the person with regard to whom the measure is being applied, and if acquisition thereof has not been provided for by the decision on conducting such measures, this information, materials or documents shall not be considered as evidence and shall be destroyed, except for the following cases:

- 1) operational intelligence bodies have acted in good faith; and
- 2) information acquired contains materials referring to grave and particularly grave crimes or to planning of such crimes; and
- 3) this Law authorises implementation of operational intelligence measure carried out to acquire such information. A separate record on acquiring information, materials and documents laid down in this part shall be drawn up.

ARTICLE 39

TERMS FOR CARRYING OUT OPERATIONAL INTELLIGENCE MEASURES

1. The term of the decision on conducting operational intelligence measures shall be counted beginning from the date of its adoption and shall not exceed 2 months. The term of the decision may be extended in accordance with the procedure for adoption of the decision on carrying out operational intelligence measure, as prescribed by this Law.

2. The overall term for carrying out operational intelligence measures laid down in points 8, 11, 12 and 15 of part 1 of Article 14, as well as the term for carrying out operational intelligence measure of external surveillance as provided for in part 1 of Article 34 of this Law shall not exceed 12 months.

3. Operational intelligence measure laid down in point 16 of part 1 of Article 14 of this Law that applies to the same person and is based on the same statement made by the same person may be carried out only once.

CHAPTER 6

USE OF RESULTS OF OPERATIONAL INTELLIGENCE MEASURES

ARTICLE 40

USE OF RESULTS OF OPERATIONAL INTELLIGENCE ACTIVITY

1. The results of operational intelligence activity acquired in accordance with the procedure prescribed by this Law shall be deemed as evidence except for the results of operational intelligence measures laid down in points 1, 2, 6 and 9 of part 1 of Article 14 of this Law.

2. The record of operational intelligence measures shall be drawn up by the official who conducts these measures. Records shall include the place, time, circumstances, name, family name, position of the officer carrying out operational intelligence measure and the names, family names, and positions of other participants of operational intelligence measure, as well as the names and family names of the persons (or their legal representatives) to whom the operational intelligence activities are applied in such a sequence as they have been carried out, scientific-technical methods and means used, as well as information, materials and documents acquired as a result of the measure. The record shall be signed by the official (officials) conducting operational intelligence measure.

3. The rules for submitting the results of operational intelligence measures to bodies conducting criminal proceedings shall be prescribed by law and by legal acts of operational intelligence bodies. Operational intelligence body may communicate the information acquired during operational intelligence measures laid down in this Law only to bodies conducting criminal proceedings or to other operational intelligence bodies upon their request to exercise specific powers vested in them by law, except for the information that shall be destructed as prescribed by this Law.

4. If during an operational intelligence measure information, materials and documents that do not refer to the person to whom the measure is being applied, are acquired and if acquisition thereof has not been foreseen by the decision on carrying out such measures, they shall not be deemed to be evidence and shall be destructed except for the following cases:

- 1) operational intelligence bodies have acted in good faith; and
- 2) information acquired contains materials referring to grave and particularly grave crime or planning of such crime; and

3) this Law authorises implementation of operational intelligence measure carried out to acquire such information. A separate record on acquiring information, materials and documents laid down in this part shall be drawn up.

ARTICLE 41

PROTECTION OF INFORMATION ON OPERATIONAL INTELLIGENCE BODIES

1. During operational intelligence measures the information with regard to forces, means and resources, methods, plans, results of measures, financing, secret staff officers of operational intelligence bodies, including persons who secretly cooperate or have cooperated therewith shall be deemed a state secret.

2. Information concerning secret staff officers of operational intelligence bodies and persons who secretly cooperate therewith shall be made public only upon their written consent or in cases provided for by law and in accordance with the procedure on publication of state secret prescribed by law.

CHAPTER 7

FINAL PROVISION

ARTICLE 42

ENTRY INTO FORCE

This Law shall enter into force on the tenth day following its official publication.

19 November, 2007

LA¹-223-N²

¹ Law of Armenia

² Normative legal act