

LAW
OF THE REPUBLIC OF ARMENIA

Adopted on 22 October 2007

ON OPERATIONAL INTELLIGENCE ACTIVITY

CHAPTER 1

GENERAL PROVISIONS

Article 1. Subject matter of the Law

This Law shall regulate legal relations arising in the field of carrying out operational intelligence activity. The Law shall prescribe the concept, tasks, principles of operational intelligence activity, bodies carrying out operational intelligence activity, their rights and responsibilities while carrying out operational intelligence activity, types of measures of operational intelligence activity, control and supervision over operational intelligence activity.

Article 2. Legal acts regulating operational intelligence activity

1. The legislation on operational intelligence activity shall comprise 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 Prosecutor's Office", "On National Security Bodies", "On Police", "On Military Police",

"On Penitentiary Service", "On tax service", this 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 shall be regulated by regulatory legal acts of bodies carrying out operational intelligence activity.

(Article 2 supplemented by HO-61-N of 19 March 2009)

Article 3. Concept of operational intelligence activity

Operational intelligence activity shall be the implementation of operational intelligence measures by bodies carrying out operational intelligence activities provided for by law, aimed at protecting the rights and freedoms of the human being and the citizen, state and public safety from unlawful encroachment.

Article 4. Objectives of operational intelligence activity

1. Objectives of operational intelligence activity shall be the following:
 - (1) detection, disclosure, prevention and disruption of crimes;
 - (2) detection of persons preparing, 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 necessary for ensuring national security;
 - (6) disruption and disclosure of smuggling, as well as illegal transportation of vehicles through the customs border of the Republic of Armenia;

- (7) warning on violations of the requirements of legal acts vesting powers of control in the tax authority, as well as prevention, disruption and disclosure thereof;
- (8) ensuring normal functioning of penitentiary institutions, warning on, prevention and disclosure of crimes being prepared 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 by a body carrying out special state protection to operational intelligence bodies, within the scope of powers vested therein by Law;
- (10) collection of information for the purpose of adopting a decision on granting permits for access to information containing state and official secret;
- (11) collection of information to ensure the safety of employees of bodies carrying out operational intelligence activities as well as persons (and members of their families) co-operating or having co-operated with those bodies;
- (12) collection of information for permits granted by the police in order to stay in border zone as prescribed by law;
- (13) collection of information for permits granted by border guard troops in order to enter and stay in border layer as prescribed by law;
- (14) collection of information for the purpose of adopting a decision 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 for the purpose of examining individuals having submitted applications for employment in National Security Bodies and the Police, as well as, in the cases provided for by law, in other state bodies;
- (16) collection of information to draw up opinion and adopt a decision on granting citizenship of the Republic of Armenia, political asylum or residence status in the Republic of Armenia to foreign citizens or stateless persons.

(Article 4 edited by HO-293-N of 21 December 2017)

Article 5. Principles of operational intelligence activity

Operational intelligence activity shall be carried out based on the following main principles:

- (1) lawfulness;
- (2) protection and rule of rights, freedoms and legitimate interests of the human being and citizen;
- (3) combination of overt and covert methods and means of the activities;
- (4) confidentiality related to the employees, types of activities, methods, forces and means of bodies carrying out operational intelligence activity;
- (5) comprehensiveness, thoroughness and impartiality of operational intelligence activity.

Article 6. Publicity of materials and documents acquired as a result of operational intelligence measures

- 1. Any person shall — within a period of three months after the rejection to institute a criminal case against him or her or termination of a criminal case

instituted against him or her as a result of absence of incident of a crime or *corpus delicti* in the act, or after the caused damage is deemed to be lawful under criminal law, or a judgement of acquittal has been rendered with regard thereto — have the right to request from bodies carrying out operational intelligence activity the materials and documents obtained as a result of operational intelligence measures implemented with regard thereto.

2. Provision of the specified materials and documents shall be rejected should it pose a threat of disclosure of state or official secret, or when the provision thereof may disclose secret staff members of bodies carrying out operational intelligence activity and persons co-operating or having co-operated, on a confidential basis, with those bodies.
3. Where a person fails — in the cases and within the time period referred to in part 1 of this Article — to request materials and documents obtained as a result of operational intelligence measures implemented with regard thereto, those materials and documents shall be destroyed.
4. Materials provided for by part 2 of this Article shall be subject to destruction within a period of three months after the rejection to institute a criminal case against a person or termination of a criminal case instituted against him or her as a result of absence of incident of a crime or *corpus delicti* in his or her act, or after the caused damage is deemed to be lawful under criminal law, or a judgement of acquittal has been rendered with regard thereto.

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 must not harm human life and health as well as the environment.

3. The use of special technical and other means envisaged (developed, planned, adjusted) for obtaining confidential information and implementation of operational intelligence measures by state authorities, subdivisions 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 shall be entitled to carry out operational intelligence activity within the scope of powers vested therein by law:
 - (1) the Police,
 - (1.1) the Military Police,
 - (2) National Security Bodies,
 - (3) tax authorities,
 - (4) customs authorities, for the purpose of disrupting and disclosing smuggling and other crimes,
 - (5) Penitentiary Service — only in penitentiary institutions.
2. The structure of bodies referred to in part 1 of this Article shall comprise relevant subdivisions which shall be assigned to implement operational intelligence measures. The structure and subordination of those subdivisions, as well as the procedure for organisation of work and documentation of operational

intelligence measures shall be prescribed by the head of the body carrying out operational intelligence activity.

3. When carrying out their activity, employees of operational subdivisions shall be guided by law and report directly to their supervisor. When receiving an order or instruction, the employee of the operational subdivision shall, in case of doubts regarding the lawfulness of the received order or instruction, immediately inform in writing the person issuing the order or instruction or the superior or substitute thereof. Where the person issuing the instruction confirms in writing the given order or instruction, the employee of the operational subdivision shall be obliged to execute it, unless the given order or instruction may result in criminal liability prescribed by law. The person having confirmed in writing the order or instruction shall bear liability for the execution thereof by the employee of the operational subdivision.
4. Employees of bodies carrying out operational intelligence activity may, as prescribed by jointly adopted agency regulatory legal acts, co-operate when implementing operational intelligence measures prescribed by this Law.
5. Bodies carrying out operational intelligence activity shall be financed at the expense of the state budget.

(Article 8 supplemented by HO-61-N of 19 March 2009)

Article 9. General operational technical department functioning within the system of the Republican National Security Body of the Republic of Armenia

(Title edited by HO-87-N of 8 April 2009)

1. Implementation of operational intelligence measure of wire-tapping provided for by this Law shall — as prescribed by this Law — be ensured only by the general

operational technical department functioning within the system of the Republican National Security Body of the Republic of Armenia (hereinafter referred to as "the General Department"), upon the motion of the bodies having the competence to implement such operational intelligence measure.

2. The general management of the General Department shall be carried out by the head of the Republican National Security Body of the Republic of Armenia. Direct management of the General Department shall be carried out by the head of the General Department, who shall be appointed to and dismissed from position by the Prime Minister, upon recommendation by the head of the Republican National Security Body of the Republic of Armenia. The position of the head of the General Department shall be a position included in the group of chief positions of officers of the National Security Bodies.
3. ***(part repealed by HO-270-N of 23 March 2018)***
4. The General Department shall ensure the necessary operational and technical conditions for telecommunication operator in order for the bodies authorised by this Law to implement the operational intelligence measure of wire-tapping.

(Article 9 edited by HO-87-N of 8 April 2009, amended by HO-270-N of 23 March 2018)

Article 10. Rights of bodies carrying out operational intelligence activity

1. While exercising their tasks, bodies carrying out operational intelligence activity shall be entitled to:
 - (1) implement measures provided for by Article 14 of this Law using overt or covert methods;
 - (2) co-operate — with or without compensation, with or without concluding a contract — with persons having expressed a wish to co-operate secretly with bodies carrying out operational intelligence activity;

- (3) use constructions, special and other technical means, as well as vehicles belonging to the officials of the bodies carrying out operational intelligence activity, as well as to the bodies carrying out operational intelligence activity.

For the purpose of fulfilling the tasks prescribed by this Law, National Security Bodies and the Police may, as prescribed by the legislation of the Republic of Armenia, create non-existent organisations, as well as use cover-up documents made by the National Security Bodies.

2. Operational intelligence measures may, under the procedure prescribed by this Law, be implemented based on the inquiries of law-enforcement bodies and special services of foreign states and international law-enforcement organisations, in compliance with international treaties of the Republic of Armenia.
3. Bodies carrying out operational intelligence activity shall not be entitled to exercise the rights provided for by this Article in favour or to the detriment of any natural or legal person or interfere in 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 be obliged to:
 - (1) carry out mandatory written assignments of the investigator, assignment of the inquest body, written mandatory instructions issued by the prosecutor and decisions of the investigator and the court on implementing necessary operational intelligence measures;
 - (1.1) verify the anonymous report received through unified electronic platform of whistle-blowing, where the information submitted with the report is

sufficiently substantiated, relates to a specific official or a body and contains data which can be reasonably verified;

- (2) co-operate, as prescribed by international treaties of the Republic of Armenia, with international law-enforcement organisations and law-enforcement bodies and special services of foreign states;
- (3) protect the employees of operational subdivisions, persons cooperating, on a confidential basis, with them, persons participating in the criminal procedure, as well as members of their families from criminal encroachments;
- (4) co-operate with law-enforcement bodies, when exercising their powers, by communicating the information having become known thereto and related to the competence of such authorities, except for the information subject to destruction under this Law.

(Article 11 supplemented by HO-100-N of 9 June 2017)

Article 12. Persons co-operating with bodies carrying out operational intelligence activity

1. Adults having active legal capacity 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 co-operation. Co-operation is possible upon the consent of those persons. Those persons shall not make public any information related to co-operation, having become known thereto, as well as shall not 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 co-operating or having co-operated, on a confidential basis, with them.

2. The procedure for recruiting, involving and paying the persons co-operating, on a confidential basis, with bodies carrying out operational intelligence activity shall be prescribed by the regulatory legal acts of those bodies.
3. Bodies carrying out operational intelligence activity shall not have the right to involve the following persons, as co-operating persons, in the preparation and implementation of operational intelligence activity:
 - (1) Deputies;
 - (2) members of the Government;
 - (3) judges;
 - (4) officers of the National Security Bodies, the Police, armed forces and penitentiary institution, except for involvement in view of carrying out counter-intelligence activity as prescribed by law, as well as employees of the Prosecutor's Office, investigation bodies and operational subdivisions of other bodies carrying out operational intelligence activity;
 - (5) the Human Rights Defender of the Republic of Armenia.

(Article 12 supplemented by HO-81-N of 17 January 2018, amended, supplemented by HO-356-N of 13 June 2018)

Article 13. Safety and social protection of employees of operational subdivisions, as well as persons co-operating with bodies carrying out operational intelligence activity, their family members and persons under the custody thereof

1. Persons co-operating with bodies carrying out operational intelligence activity shall be exempt from criminal liability for commission of a crime, as prescribed by law.

2. Bodies carrying out operational intelligence activity shall be obliged to ensure the protection of persons involved in preparation and implementation of operational intelligence measures and their family members, where there is a real threat to their life and health, arising from their co-operation with those bodies.
3. Persons co-operating with bodies carrying out operational intelligence activity, as well as persons having contributed to the disclosure of crimes and detection of criminals may receive monetary and other awards. The amounts of those awards shall not be subject to taxation and declaration.
4. In case a person secretly co-operating with bodies implementing operational intelligence measures dies as a consequence of participation in operational intelligence measures, family members and persons under the custody thereof shall receive a lump-sum benefit from the state budget at the rate of ten years' amount of monthly pecuniary satisfaction of the deceased and shall be granted a pension for the loss of bread-winner, as prescribed by law. Where a person was injured, maimed, contused or became disabled in above-mentioned circumstances, he or she shall be paid a lump-sum benefit from the state budget at the rate of five years' amount of the monthly pecuniary satisfaction and shall be granted disability pension, as prescribed by law.
5. Period of service of officials of bodies carrying out operational intelligence activity that fulfil special assignments in organised criminal groups, as well as the period of service as secret staff members shall be included in the period of general record of service in the bodies carrying out operational intelligence activity by privileged calculation, the ways and conditions of calculation whereof shall be 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) test 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, localities, constructions and vehicles;
 - (11) interception of correspondence, postal, telegraphic and other communications;
 - (12) wire-tapping;
 - (13) operational infiltration;
 - (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 prescribed only by law.

2. The Police shall be entitled to implement operational intelligence measures provided for by points 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of part 1 of this Article.
- 2.1. The Military Police shall be entitled to implement operational intelligence measures provided by points 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, and 16 of part 1 of this Article.
3. National Security Bodies shall be entitled to implement operational intelligence measures provided for by 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 shall be entitled to implement operational intelligence measures provided for by points 1, 2, 3, 5, 6, 7, 8, 9, 13 and 14 of part 1 of this Article.
5. Tax authorities shall be entitled to implement operational intelligence measures provided for by points 1, 2, 3, 4, 5, 6, 7, 10, 13 and 14 of part 1 of this Article.
6. Bodies of the Penitentiary Service shall be entitled to implement operational intelligence measures provided for by points 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of part 1 of this Article, only in pre-trial detention facilities and in the territory of corrective labour institutions of the penitentiary system of the Ministry of Justice of the Republic of Armenia.

(Article 14 supplemented by HO-61-N of 19 March 2009)

Article 15. Operational inquiry

Inquiry shall be the collection of information on circumstances of crimes committed, being prepared or committed, as well as on circumstances to be clarified during operational intelligence activity by way of asking questions (making inquiries) to legal or natural persons who actually possess or are supposedly possess such information.

Article 16. Acquisition of operational information

Acquisition of operational information shall be the collection of information concerning persons and facts of operational concern for the purpose of carrying out the tasks of operational intelligence activity.

Article 17. Collection of samples for comparative examination

Collection of samples for comparative examination shall be the collection (receipt) of the relevant materials, objects, items, documents and other samples in order to carry out the necessary comparison and studies.

Article 18. Test purchase

Test purchase shall be carried out in order to verify compliance with the legislation ensuring uniformity of standardisation and measurement and the rules of tax record-registration, as well as to take samples for further studies, to disclose the real prices of goods, services and works.

Article 19. Controlled supply and purchase

1. Controlled supply and purchase shall be the control of circulation of goods and services, including for the purpose of identifying 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 whereof is prohibited or circulation whereof is restricted, shall be carried out based on the decision of the head of the body carrying out operational intelligence activity.

Article 20. Examination of items and documents

Examination of items and documents shall be the inspection 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, photographing, electronic and other media. The objects and the traces thereon shall be preserved during and after the examination.

Article 21. External surveillance

External surveillance shall be the tracing of persons without violating the inviolability of the home, 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, photographing, electronic and other media.

Article 22. Internal surveillance

1. Internal surveillance shall be the tracing of a person(s) inside the home 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, photographing, electronic and other media.
2. In this Law the term "home" shall be used in the meaning prescribed by the Criminal Procedure Code of the Republic of Armenia.

Article 23. Identification of a person

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

Article 24. Examination of buildings, constructions, structures, locality and vehicles

Examination of buildings, constructions, structures, locality and vehicles shall be the external inspection thereof, disclosure of qualities 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, photographing, electronic and other media.

Article 25. Interception of correspondence, postal, telegraphic and other communications

Interception of correspondence, postal, telegraphic and other communications, including fax messages, with or without use of technical means, shall be the examination of transmitted letters, postal, telegraphic and other communications, including their content, and corroboration of their results as well as identification of the person having sent the letter, postal, telegraphic and other communications through the handwriting thereof or using other technical means.

Article 26. Wire-tapping

Wire-tapping shall be the secret monitoring of conversations, including telephone conversations via the Internet and electronic communication, carried out using special and other technical means, which shall mean:

- (1) in case of fixed telephone network:
 - a. recording of telephone conversation or corroboration of its content in any other form;
 - b. collection and/or corroboration of the data necessary for identifying telephone numbers directly related to the given telephone number, the date of starting the conversation, as well as its beginning and ending;
 - c. collection and/or corroboration of the data necessary for identifying telephone numbers related indirectly (mediately) to the given telephone number, the date of starting the conversation, as well as its beginning and ending;
 - d. in case of call forwarding or transferring, identification of the telephone number to which the call was transferred;
- (2) in case of mobile telephone network:
 - a. recording of telephone conversation, including short messages (SMS) or voice messages or corroboration of their content in any other form;
 - b. collection and/or corroboration of the data necessary for identifying telephone numbers directly related to the given telephone number, the date of starting the conversation, as well as its beginning and ending;
 - c. collection and/or corroboration of the data necessary for identifying telephone numbers related directly (mediately) to the given telephone number, the date of starting the conversation, as well as its beginning and ending;
 - d. in case of call forwarding or transferring, identification of the telephone number to which the call was transferred;

- (3) in case of Internet communication, including telephone conversations via the Internet and electronic messages transferred via the Internet, recording of messages or corroborating of 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 network, including IP (Internet Protocol) address;
 - b. name of the Internet user or the subscriber and user ID;
 - c. telephone number by which the user is connected to common-telephone network, Internet address, name of the person receiving the telephone call via the Internet or any data on the facts, events, circumstances concerning that person in a form that shall or may enable to establish his or her identity.

(Article 26 edited by HO-270-N of 23 March 2018)

Article 27. Operational infiltration

Operational infiltration shall be the secret infiltration of secret staff members of bodies carrying out operational intelligence activity as well as of persons co-operating, on confidential basis, therewith into certain bodies, organisations or groups.

Article 28. Operational experiment

Operational experiment shall be the examination of possibility of occurrence of 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 shall be the receipt of information on bank and other type of accounts (deposits) from banks or other financial organisations, as well as constant monitoring of performed financial transactions without the knowledge of persons engaged therein.

Article 30. Imitation of taking or giving bribes

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

CHAPTER 4

REQUIREMENTS FOR THE PROCEDURE FOR IMPLEMENTING OPERATIONAL INTELLIGENCE MEASURES. SUPERVISION AND CONTROL OVER OPERATIONAL INTELLIGENCE ACTIVITY

Article 31. General requirements for implementing operational intelligence measures

1. Wire-tapping by the Police or bodies of the Penitentiary Service shall be conducted through creation of operational-technical conditions by the General Department, including through provision of communication channels and means, direct control and corroboration of data, information and communications obtained by the Police or bodies of the Penitentiary Service, moreover, excluding control and/or corroboration of data, information and communications by National Security Bodies and the General Department.
2. The bodies of the Police, Military Police or the Penitentiary Service shall conduct interception of communications, international correspondence, postal, telegraphic and other communications transmitted via the Internet, through creation of operational and technical conditions by National Security Bodies, including through provision of communication channels and means, direct control and corroboration of data, information and communications acquired by bodies of the Police, Military Police or the Penitentiary Service, moreover, excluding control and/or corroboration of data, information and communications by National Security Bodies.
3. The Police, Military Police or bodies of the Penitentiary Service shall be entitled to conduct interception of correspondence, postal, telegraphic and other communications except for transmission of international correspondence, postal,

telegraphic and other communications, both independently and using communication means provided by National Security Bodies, as prescribed by part 2 of this Article.

4. Operational intelligence measures provided for by points 8, 11, 12 and 15 of part 1 of Article 14 of this Law may be implemented only in case the person, with regard where to the measure is to be implemented, is suspected of committing a grave and particularly grave crime and where there is substantiated evidence that it is impossible for the body carrying out operational intelligence activity to obtain, in any other form, information necessary for the fulfilment of the tasks assigned thereto by this Law.
5. When implementing operational intelligence measures provided for by point 12 of part 1 of Article 14 of this Law, telecommunication and postal organisations shall, upon the request of the General Department, provide technical facilities and create other conditions necessary for implementing operational intelligence measures.
6. When implementing operational intelligence measures provided for by point 11 of part 1 of Article 14 of this Law, telecommunication and postal organisations shall, upon the request of the National Security Bodies, and in the cases provided for by part 3 of this Article — upon the request of bodies of the Police, Military Police and Penitentiary Service, provide technical facilities and create other conditions necessary for carrying out operational intelligence measures.
7. It shall be prohibited to implement operational measures provided for by points 8, 11 and 12 of part 1 of Article 14 of this Law, where a person, with respect where to the measure concerned is to be implemented, is communicating with his or her lawyer. Information containing lawyer's secret — obtained in the process of implementing operational intelligence measures provided for by points 8, 11 and 12 of part 1 of Article 14 of this Law by reasons not related to the

objective of carrying out operational intelligence measures — shall be immediately destructed.

(Article 31 supplemented by HO-61-N of 19 March 2009, amended by HO-87-N of 8 April 2009)

Article 32. Procedure for implementing the operational intelligence measure of wire-tapping

1. Bodies, including National Security Bodies, having the competence of implementing the operational intelligence measure of wire-tapping shall, in order to carry out wire-tapping, submit to the General Department the excerpt of the decision of the court, and in the cases provided for by part 3 of this Article — the decision of the head of the body carrying out operational intelligence activity on implementing operational intelligence measures. The excerpt shall be provided by the court together with the decision on the above-mentioned operational intelligence activity and shall contain only the phone number subject to wire-tapping.
2. Where delay in implementing 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 security of the Republic of Armenia, the General Department shall ensure the implementation of these measures, as prescribed by this Article, however, the body having filed a motion with the General Department for implementing such operational intelligence measures shall, within forty-eight hours, be obliged to submit to the General Department the excerpt of the decision of the court on permitting or denying permission to implement those measures.
3. In case of failure to submit the permission of the court within forty-eight hours as provided for by part 2 of this Article or in case of submission to the General

Department of the decision of the court on denying permission to implement operational intelligence measures provided for by this Article, such activity shall be immediately terminated, and information and materials already obtained shall be immediately destroyed by the body implementing the measure. The head of the Republican National Security Body of the Republic of Armenia shall immediately report to the Prime Minister of the Republic of Armenia on each case provided for by this part.

4. The head of the Republican National Security Body of the Republic of Armenia shall submit to the Prime Minister of the Republic of Armenia an annual report on each body having the competence to implement 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 filed with the General Department for implementing operational intelligence measures provided for by this Article;
 - (2) number of motions brought without the excerpt of court decision, for which the excerpt was not submitted later;
 - (3) number of motions brought without the excerpt of court decision, with regard to which the court later denied permission to implement such operational intelligence measures.

(Article 32 amended by HO-270-N of 23 March 2018)

Article 33. Direct supervision over carrying out operational intelligence activity

Direct supervision over implementing operational intelligence measures provided for by this Law shall be exercised by the official having made a decision on implementing those measures, who shall bear personal liability for the lawfulness of carrying out operational intelligence activity.

Article 34. Judicial control over operational intelligence activity

1. Operational intelligence measures provided for by points 8, 11, 12, 15, and 16 of part 1 of Article 14 of this Law, as well as the operational intelligence measure of external surveillance may be implemented only upon the permission of the court where it is not possible to corroborate the results of external surveillance without application of technical means and the person (persons) with regard where to external surveillance is being carried out could not reasonably assume the possibility of carrying out such surveillance.
2. In order to obtain the permission of the court for implementing operational intelligence measures provided for by this Article, the head of the operational subdivision shall submit to the head of the body carrying out operational intelligence activity the decision on implementing the operational intelligence measure as well as the motion for applying to the court with regard to implementing the operational intelligence measure. The decision and the materials attached thereto shall be submitted to the court by the head of the body carrying out operational intelligence activity, as prescribed by the Criminal Procedure Code of the Republic of Armenia.
 - 2.1. The competent body carrying out operational intelligence activity may file a relevant motion with the court with regard to receiving the information provided for by sub-point "c" of point 1 of part 1 and sub-point "c" of point 2 of Article 26 of this Law only for the purpose of preventing and disclosing terrorism and crimes aimed against the state, military or environmental security of the Republic of Armenia.
3. Where the delay in implementing operational intelligence measures may result in an act of terrorism or events or actions threatening the state, military or environmental security of the Republic of Armenia, and in order to implement them the permission of the court is deemed to be mandatory under this Law, implementation of such measures within forty-eight hours shall be permitted

based on the decision of the head of the body carrying out operational intelligence activity through notifying the court, as prescribed by the Criminal Procedure Code of the Republic of Armenia. Where the court does not deem the grounds for implementing operational intelligence measures to be sufficient, the implementation thereof shall be immediately terminated and the information and materials obtained as a result thereof shall be immediately destroyed. Otherwise, the court shall render a decision on permitting to implement the operational intelligence measure. The provisions of this part shall not extend to operational intelligence measures provided for by point 16 of part 1 of Article 14 of this Law and to the relations provided for by Article 32.

(Article 34 supplemented by HO-270-N of 23 March 2018)

Article 35. Prosecutorial control over operational intelligence activity

1. When exercising procedural control over investigation and inquest, the prosecutor shall exercise control over the lawfulness of operational intelligence activity within the scope of powers vested therein by law. Means of organising and carrying out operational intelligence activity shall not be subject to control by the prosecutor.
2. When exercising the powers provided for by part 1 of this Article, heads of bodies carrying out operational intelligence activity shall, upon the request of the prosecutor, be obliged to submit thereto the documents which serve as a ground for these measures as well as other necessary information. The prosecutor shall be obliged to ensure the confidentiality of the documents and information submitted thereto by bodies carrying out operational intelligence activity.
3. Information with regard to staff members of bodies carrying out operational intelligence activity and persons secretly co-operating with these bodies shall be submitted to the prosecutor only upon the consent of those persons, except for the cases when the issue of subjecting them to criminal liability arises.

CHAPTER 5

DECISION ON IMPLEMENTING OPERATIONAL INTELLIGENCE MEASURE

Article 36. Grounds for decision on implementing operational intelligence measures

1. Operational intelligence measures shall be implemented based on the decision of the head of the operational subdivision of the body carrying out operational intelligence activity, with regard to implementing operational intelligence measure, except for the cases prescribed by this Law.
2. The written instructions of the prosecutor, decisions of the investigator, inquest body and the court on implementing operational intelligence measures in criminal cases in their proceedings, as well as the substantiated motion of the employee of the operational subdivision for receiving permission to implement operational intelligence measures shall be grounds for making a decision on implementing the operational intelligence measure.

Article 37. Substantiated motion of the employee of operational subdivision for receiving permission to implement the operational intelligence measure and the procedure for consideration thereof

1. The substantiated motion of the employee of the operational subdivision for receiving permission to implement operational intelligence measures shall include:
 - (1) the operational intelligence measure (measures) to be implemented;

- (2) grounds for implementing the operational intelligence measure or measures;
 - (3) circumstances substantiating the need for implementing such type of measure;
 - (4) information, materials or documents which are expected to be acquired as a result of such measure;
 - (5) place, beginning and end of implementing the measure or measures.
2. The motion for implementing the operational intelligence measure provided for by point 12 of part 1 of Article 14 of this Law shall also include the telephone number (numbers) to be wire-tapped.
 3. The motion for implementing the operational intelligence measure provided for by point 11 of part 1 of Article 14 of this Law must also include the postal address or electronic address to be intercepted, keywords or key phrases comprising search interest (for interception of mail delivery and other types of communication in case of absence of postal or electronic address or of keywords or key phrases comprising search interest, sample of handwriting or other specifics, sufficient for identification of the person, whose correspondence, postal, telegraphic or other types of communication shall be intercepted, may be submitted).
 4. The motion for implementing the operational intelligence measure provided for by point 15 of part 1 of Article 14 of this Law must also contain the data on the bank account (deposit) and on financial transactions to be intercepted, as well as personal data of persons whereto the transactions relate or the bank account belongs.
 5. The statement of the relevant person with regard to the offer to take or give a bribe shall also be attached to the motion for implementing the operational intelligence measure provided for by point 16 of part 1 of Article 14 of this Law.

6. In order to verify the sufficiency of the grounds for implementing operational intelligence measure, the head of the operational subdivision may require explanations and other additional materials from the employee of the operational subdivision having filed the motion.
7. The motion shall be considered single-handedly by the head of the operational subdivision with the participation of the employee having filed the motion.

Following the consideration of the issue, the head of the operational subdivision shall make a decision on permitting the implementation of the operational intelligence measure or rejecting the motion, by specifying in the decision the grounds for satisfying or rejecting the motion.

8. In case the delay of implementation of the operational intelligence measure may result in an act of terrorism, or events or actions threatening the state, military or environmental security of the Republic of Armenia are possible, it shall be allowed to implement such measures by notifying thereon the head of the operational department within six hours. Where the head of the operational subdivision does not consider the grounds for implementing the operational intelligence measure as sufficient, the implementation thereof shall be immediately terminated and the information and materials obtained as a result thereof shall be immediately destructed. Otherwise, the head of the operational subdivision shall make a decision on permitting the implementation of the operational intelligence measure within an hour after being informed thereon. The provisions of this part shall not extend to the operational intelligence measure of wire-tapping, as well as the relations arising during operational intelligence measures that may be implemented only upon the permission of the court.

Article 38. Decision on implementing operational intelligence measure

1. The decision on implementing the operational intelligence measure must include all the information referred to in parts 1, 2, 3, 4 and 5 of Article 37 of this Law, as well as the name, surname and position of the head of the subdivision having made the decision, the persons covered by the measure, the name, surname and position of the employee of the operational subdivision having the competence to carry out the decision.
2. The body carrying out operational intelligence activity shall not be entitled to perform actions that are not provided for by the decision on implementing operational intelligence measure.
3. Where during the implementation of the operational intelligence measure information, materials and documents are acquired related to the person with regard to whom the measure is being implemented, and where the acquisition thereof has not been provided for by the decision on implementing such measures, they shall not be deemed to be evidence and shall be subject to destruction, except for the following cases:
 - (1) bodies carrying out operational intelligence activity have acted in good faith; and
 - (2) information acquired contains data referring to grave and particularly grave crime or planning of such crime; and
 - (3) implementation of the operational intelligence measure carried out shall be permitted by law in order to acquire such information. A separate record on acquiring information, materials and documents provided for by this part shall be drawn up.

(Article 38 amended by HO-270-N of 23 March 2018)

Article 39. Time limits for implementing operational intelligence measures

1. The time limit for making a decision on the implementation of the operational intelligence measure shall be calculated beginning from the date of its adoption and may not exceed 2 months. The time limit for making the decision may be extended under the procedure prescribed by this Law for the adoption of the decision on implementing operational intelligence measure.
2. The general time limit for implementing the operational intelligence measures provided for by points 8, 11, 12 and 15 of part 1 of Article 14 of this Law, as well as the time limit for implementing the operational intelligence measure of external surveillance provided for by part 1 of Article 34 of this Law may not exceed 12 months.
3. Operational intelligence measure provided for by 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 implemented 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 to be evidence except for the results of operational intelligence measures provided for by 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 implementing them. The record shall include the place, time, circumstances of the operational intelligence measure, the names, surnames and positions of the employee implementing the operational intelligence measure and of other participants of the operational intelligence measure, and the names and surnames of the persons (or their legal representatives) to whom all the actions performed during the operational intelligence measure apply in a sequence they have been carried out, as well as scientific-technical methods and means used and the information, materials and documents acquired as a result of the measure. The record shall be signed by the official (officials) implementing the operational intelligence measure.
3. The procedure for submitting the results of operational intelligence measures to bodies conducting criminal proceedings shall be prescribed by law and by legal acts of bodies carrying out operational intelligence activity. The body carrying out operational intelligence activity may communicate the information acquired during the operational intelligence measures provided for by this Law only to other bodies conducting criminal proceedings or operational intelligence activity upon their request to exercise specific powers vested therein by law, except for the information subject to destruction, as prescribed by this Law.
 - 3.1. The record drawn up as a result of operational intelligence measures implemented as prescribed by this Law shall serve as a ground for imposing sanctions for tax offences under the Tax Code of the Republic of Armenia in the following cases:
 - (1) detection of entrepreneurial activity (illegal activity) without state registration (record-registration) or without record- registration in tax authorities, prescribed by law;

- (2) revealing of hired workers of the person carrying out illegal activities, where those workers are not documented as prescribed by the legislation of the Republic of Armenia;
- (3) performance of activities subject to licensing in compliance with the Law of the Republic of Armenia "On licensing" without a licence or carrying out activities subject to notification in compliance with the Law of the Republic of Armenia "On notification of carrying out activities" without notification, or using the subsurface or natural resources without a permit or licence (including where the validity of the licence or permit or the right to engage in activities subject to notification have been suspended as prescribed by law);
- (4) violation of the requirements prescribed by the Code for the documentation of supply or transportation of goods, i.e. supply or transportation of goods with an accompanying document not meeting the requirements prescribed by the Code or without an accompanying document;
- (5) detection of activities prohibited by law.

During operative intelligence measures carried out for the purpose of detecting the violations prescribed by this Article, the official of the tax authority shall — upon the request of the taxpayer — submit the excerpt of the decision on carrying out operative intelligence measures.

In the cases referred to in this part, tax liabilities shall be calculated and proposed for collecting by the tax authority within the framework of administrative proceedings initiated in compliance with the provisions of the Law of the Republic of Armenia "On fundamentals of administration and administrative proceedings" and the administrative act adopted as prescribed by the same law by the head of the tax authority or the official authorised thereby.

4. Where during the implementation of operational intelligence measures information, materials and documents that do not relate to the person to whom

the measure is being applied, are acquired and where the acquisition thereof has not been envisaged by the decision on carrying out such measures, they shall not be deemed to be evidence and shall be subject to destruction, except for the following cases:

- (1) bodies carrying out operational intelligence activity have acted in good faith; and
- (2) information acquired contains data referring to grave and particularly grave crime or planning of such crime; and
- (3) implementation of the operational intelligence measure carried out is permitted by law in order to acquire such information. A separate record on acquiring information, materials and documents provided for by this part shall be drawn up.

(Article 40 supplemented by HO-244-N of 23 June 2011, HO-310-N of 7 December 2011, edited by HO-254-N of 19 December 2012, supplemented by HO-125-N of 13 November 2015, edited by HO-293-N of 21 December 2017)

Article 41. Protection of information on bodies carrying out operational intelligence activity

1. During the implementation of operational intelligence measures the information with regard to forces, means and resources, methods, plans, results of those measures, financing thereof, as well as secret staff members of bodies carrying out operational intelligence activity, including persons co-operating or having co-operated, on a confidential basis, therewith shall be deemed to be a state secret.
2. Publication of information concerning secret staff members of operational intelligence bodies and persons co-operating, on a confidential basis, therewith shall be allowed only upon their written consent or in the cases provided for by law — under the procedure prescribed by law for publication of state secret.

CHAPTER 7

FINAL PROVISION

Article 42. Entry into force

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

**President
of the Republic of Armenia**

R. Kocharyan

19 November 2007

Yerevan

HO-223-N