



NGOs' Address to the Parliament of Georgia about the Draft on State Secret

In a few days, the Parliament of Georgia plans to discuss the draft on State Secret at the second reading. The author of the draft is the inter-agency working ground and the initiator - MP Irakli Sesiashvili. The draft intends to replace its predecessor legislative act adopted nearly 20 years ago in 1996. The proposed version mostly repeats the provisions and structure of the applicable law, fails to meet the international standards and has number of deficiencies. We consider adoption of the draft inadmissible until the gaps are corrected.

It should be noted that the Ministry of Justice, jointly with the civil society organizations actively works on elaboration of the new Freedom of Information draft. We are concerned that such an important document, which completely incorporates issues related to the state secret, was prepared separately from and prior to the Freedom of Information draft. State Secret is an exception, while openness of information is the main principle. In the situation, when the Parliament initially determines the exception through the new draft, serious risks emerge in terms of ensuring freedom of information effectively. Furthermore, organizations which have experience in the field of accountability and transparency were not involved in preparation of the draft on State Secret. Accordingly, novelties proposed in the draft by the Parliament address and regulate some technical issues from the perspective of state institutions, rather than reflect modern international standards of freedom of information. Regretfully, several meetings of the Parliament held after the first reading of the bill with non-governmental and international experts brought no substantial results for the initial version of the draft.

The new draft of State Secret fails to meet the challenges and does not substantially

improve the applicable law on state secret. For example, the official version of the draft does not mention public interest test and the so-called “harm test” is formulated weakly. The draft, (as well as the applicable law) imposes the key role to the MIA in protecting the state secret, that is inadmissible for the following reasons: As for international standards, it is more preferable to transfer supervisory functions to an independent body. Moreover, the draft does not provide sufficient guarantees for the protection of informers, nor it regulates significant problems in the field of state secret in terms of criminal liability of journalists in case of disclosing state secret.

In addition, the draft deteriorates some applicable provisions, namely: the circle of normative acts that might be recognized as state secret extends; person holding top secret status possesses no obligation to give well-grounded response to the motivated proposal on classifying information; the term to check the person before s/he is admitted the state secret increases; Further, the refusal on admission to the state secret might be based on vague criteria, the scope of secret information increases and etc.

In view of above, the undersigned organizations call on the Parliament of Georgia to decline the bill on state secret, especially in the current form; and to start consideration only in the frame of and in parallel to the new draft on Freedom of Information.

Transparency International Georgia
Georgian Young Lawyers' Association
Article 42 of the Constitution
Open Society Georgia Foundation
Georgian Charter of Journalistic Ethics
Identity
Human Rights Centre