



Strasbourg, 20 November 2023

**CDL-REF(2023)055**

Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**GEORGIA**

**PROVISIONS ON THE PERSONAL DATA PROTECTION SERVICE  
IN THE LAW ON PERSONAL DATA PROTECTION**

**LAW OF GEORGIA  
ON PERSONAL DATA PROTECTION<sup>1</sup>**

**Chapter I – General Provisions**

**Article 2 – Definition of terms**

The terms used in this Law have the following meanings:

T<sup>1</sup>) Employee of Personal Data Protection Service – a person employed in the Personal Data Protection Service, including the PDPS Head and an official person envisaged by Article 40<sup>4</sup> of this Law.

**Chapter V<sup>1</sup> – The Principles of Activities of the Personal Data Protection Service and Guarantees of the Exercise of Powers, the Powers of the Head of the Personal Data Protection Service, his/her Election, Inviolability, Incompatibility of Positions and Termination of Powers**

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Article 40<sup>1</sup> – The principles of activities of the Personal Data Protection Service**

1. When carrying out its activities, the Personal Data Protection Service shall be guided by the Constitution of Georgia, international treaties of Georgia, generally recognized principles and norms of international law, this Law and other relevant legal acts.

2. The principles of activities of the Personal Data Protection Service are:

- a) lawfulness
- b) respect of human rights and freedoms
- c) independence and political neutrality;
- d) fairness and impartiality;
- e) professionalism;
- f) respect of secrecy and privacy.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Article 40<sup>2</sup> – The Powers of the Head of the Personal Data Protection Service**

1. The Head of the Personal Data Protection Service shall:

---

<sup>1</sup> <https://www.matsne.gov.ge/en/document/view/1561437?publica?on=23>;  
<https://matsne.gov.ge/ka/document/view/5624775?publica?on=0>

- a) manage the Personal Data Protection Service and take decisions on issues related to the activities of the Service;
- b) determine the structure of the Personal Data Protection Service, and the powers of structural units and employees; define the procedures for serving at the Personal Data Protection Service;
- c) approve, in accordance with the legislation of Georgia, the staff list of employees of the Personal Data Protection Service, and the procedures and amounts of remuneration;
- d) determine the functions and duties of the First Deputy and Deputy Head of the Personal Data Protection Service and delegate powers to them;
- e) appoint and dismiss employees of the Personal Data Protection Service;
- f) grant the special state rank (from now on - „the special rank“) to an employee of the Personal Data Protection Service (except of an employee employed by employment contract) and decline him/her down to the special rank in accordance with the procedure established by the legislation of Georgia;
- g) represent personal data protection service in relations with state bodies, international and other organisations;
- h) ensure the protection and targeted use of state property transferred to the Personal Data Protection Service;
- i) exercises other powers in accordance with law.

2. The Head of the Personal Data Protection Service shall, within the scope of his/her powers, issue a subordinate normative act, an order on matters related to the activities of the Personal Data Protection Service.

3. The Head of the Personal Data Protection Service shall issue individual legal acts, including resolutions, orders and instructions, based on the appropriate normative act and within the scope of its powers to execute such normative act.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

### **Article 40<sup>3</sup> – Election of the Head of the Personal Data Protection Service and his/her term of office**

1. A citizen of Georgia who has not been convicted and who has a higher legal education and at least 5 years of experience in the system of justice or law enforcement bodies, or in the field of the protection of human rights, and a high professional and moral reputation, may be elected to the position of Head of the Personal Data Protection Service.

2. The competition for the selection of the Head of the Personal Data Protection Service shall be announced and the competition commission shall be established by the order of the Prime Minister of Georgia. The members of the competition commission shall be:

- a) a representative of the Government of Georgia
- b) the Chairperson of the Human Rights and Civil Integration Committee of the Parliament of Georgia
- c) the Chairperson of the Legal Issues Committee of the Parliament of Georgia
- d) Deputy Chairperson of the Supreme Court of Georgia

- e) First Deputy or Deputy Prosecutor General of Georgia
- f) the Public Defender of Georgia or the representative of the Public Defender of Georgia
- g) a person with relevant experience, who has work experience in the field of human rights and/or data protection, and who has been selected by the Public Defender of Georgia from the members of the non-entrepreneurial (non-commercial) legal entity through an open competition.

3. Not earlier than 11 weeks and not later than 10 weeks before the expiry of the term of office of the Head of the Personal Data Protection Service, and in the case of termination of his/her term of office, within 1 week after the termination of the term of office, the agencies and institutions specified in paragraph 2 of this article shall inform the Prime Minister of Georgia on the names of the members of the competition commission for the selection of the Head of the Personal Data Protection Service. 7 days after the expiry of the deadline for nomination of the members of the competition commission, the Prime Minister of Georgia shall convene the first meeting of the competition commission. The meeting of the competition commission shall quorate if the majority of the full composition of the competition commission is present. The competition commission shall elect the chairperson of the competition commission from among its members at the first meeting and shall approve the regulations of the competition commission for the selection of the Head of the Personal Data Protection Service within 1 week, which shall determine the rules of activity of the competition commission, as well as the deadline and procedures for nomination of candidacies for the Head of the Personal Data Protection Service.

4. The competition commission for the selection of the Head of the Personal Data Protection Service shall select no less than 2 and no more than 5 candidates for the Head of the Personal Data Protection Service by the majority of votes, and shall nominate them to the Prime Minister of Georgia. Taking into account the number of selected candidacies, the nomination of candidates of different genders shall be maximally equal.

5. The Prime Minister of Georgia shall, within 10 days, nominate 2 candidates to the Parliament of Georgia for the selection to the position of the Head of the Personal Data Protection Service.

6. The Parliament of Georgia shall elect the Head of the Personal Data Protection Service in accordance with the procedures established by the Rules of Procedure of the Parliament of Georgia no later than 14 days after the nomination of candidates. If the term fully or partially coincides with the period between the sessions of the Parliament of Georgia, the term specified by this paragraph for the election of the Head of the Personal Data Protection Service shall be extended by the appropriate time. If the Parliament of Georgia fails to elect the Head of the Personal Data Protection Service through the voting or if both candidates refuse to be elected to the position of the Head of the Personal Data Protection Service before the voting, the Prime Minister of Georgia shall announce a new competition within 2 weeks.

7. If the Head of the Personal Data Protection Service was elected before the expiry of the term of office of the current Head of the Personal Data Protection Service, the powers of the newly elected Head of the Personal Data Protection Service shall take effect on the day following the expiry of the term of office of the current Head of the Personal Data Protection Service. If the Head of the Personal Data Protection Service was elected after the expiry of the term of office of the Head of the Personal Data Protection Service or before the termination of his/her term of office, the powers of the

newly elected Head of the Personal Data Protection Service shall take effect on the day following his/her election.

8. The term of office of the Head of the Personal Data Protection Service shall be 6 years. A person may not be elected to the position of Head of the Personal Data Protection Service twice in succession. The Head of the Personal Data Protection Service may not perform his/her duties after the expiry or the termination of the term of office.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>4</sup> – First Deputy and Deputy Head of the Personal Data Protection Service**

1. The Head of the Personal Data Protection Service has a First Deputy and a Deputy, whom he/she appoints to the positions by order. Upon the expiry or the termination of the term of office of the Head of the Personal Data Protection Service, the term of office of the First Deputy and Deputy Head of the Personal Data Protection Service shall cease as soon as the newly elected Head of the Personal Data Protection Service starts the exercise of powers in accordance with the procedure established by this Law.

2. In the case of the absence of the Head of the Personal Data Protection Service, his/her failure to exercise powers, the suspension, expiry or termination of his/her powers, the powers of the Head of the Personal Data Protection Service shall be exercised by the First Deputy Head of the Personal Data Protection Service, and in the absence of the First Deputy - the Deputy Head of the Personal Data Protection Service. During the performance of the duties of the Head of the Personal Data Protection Service, the First Deputy and the Deputy Head of the Personal Data Protection Service shall enjoy the powers and legal guarantees granted to the Head of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>5</sup> – Inviolability of the Head of the Personal Data Protection Service**

1. The Head of the Personal Data Protection Service shall be inviolable. Criminal prosecution, detention or arrest of the Head of the Personal Data Protection Service, the search of his/her residence or workplace, car or personal search can only be done with the prior consent of the Parliament of Georgia. An exception is the case when he/she has been caught in action, which shall be immediately reported to the Parliament of Georgia. If the Parliament of Georgia does not give its consent within 48 hours, the arrested or detained Head of the Personal Data Protection Service shall be released immediately.

2. In the event that the Parliament of Georgia gives consent to the arrest or detention of the Head of the Personal Data Protection Service, his/her powers shall be suspended by the resolution of the Parliament of Georgia before the resolution/judgment on termination of the criminal prosecution is issued or the court judgment enters into legal force.

3. The personal security of the Head of the Personal Data Protection Service shall be ensured by the relevant state bodies in the prescribed manner.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

### **Article 40<sup>6</sup> – Incompatibility of the position of the Head of the Personal Data Protection Service**

1. The position of the Head of the Personal Data Protection Service shall be incompatible with the membership of the representative bodies of state authorities and municipalities, any position in the public and state services, and other paid activities, except for scientific, pedagogical and artistic activities. The Head of the Personal Data Protection Service may not engage in entrepreneurial activities, directly exercise the powers of a permanent head of a business entity, a member of a supervisory, control, audit or advisory body, be a member of a political party or participate in political activities.

2. The Head of the Personal Data Protection Service shall be prohibited from participating in gatherings and demonstrations supporting or opposing the political union of citizens.

3. The person elected to the position of the Head of the Personal Data Protection Service is obliged to stop the activities incompatible with the position or to resign from the position incompatible with his/her status within 10 days after the election. Until the person elected to the position of the Head of the Personal Data Protection Service does not stop the activities incompatible with the position or resigns from the position incompatible with his/her status, he/she shall not be authorised to start exercising the powers of the Head of the Personal Data Protection Service. If the Head of the Personal Data Protection Service does not comply with the requirements established by this paragraph within the mentioned period, his/her powers shall be terminated.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

### **Article 40<sup>7</sup> – Termination of powers of the Head of the Personal Data Protection Service**

1. The powers of the Head of the Personal Data Protection Service shall be terminated if:

- a) he/she lost the citizenship of Georgia;
- b) he/she has not been able to exercise his/her powers for 4 consecutive months due to his/her health condition;
- c) the court's judgement of conviction has entered into legal force;
- d) he/she was recognised by the court as a recipient of support (unless otherwise determined by the court's judgment), as missing or declared dead;
- e) he/she has occupied a position incompatible with his/her status or carries out activities incompatible with the position;
- f) he /she has resigned voluntarily;
- g) he/she has died.

2. In the case provided for by paragraph 1 of this article, the powers of the Head of the Personal Data Protection Service shall be considered terminated from the moment of

the occurrence of the relevant circumstances, of which the Chairperson of the Parliament of Georgia shall immediately inform the Parliament of Georgia. The Parliament of Georgia shall terminate the powers of the Head of the Personal Data Protection Service on the basis of receiving information from the Chairperson of the Parliament of Georgia.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>8</sup> – Organisational and financial support of the Personal Data Protection Service**

1. The structure of the Personal Data Protection Service, the rules for activities and the distribution of powers among employees shall be established by the regulations of the Personal Data Protection Service, which shall be approved by the Head of the Personal Data Protection Service.

2. An employee of the Personal Data Protection Service (except for the Head, First Deputy Head and Deputy Head of the Personal Data Protection Service) shall be a public servant. The Law of Georgia ‘On Public Service’ shall apply to the PDPS7employee, unless otherwise established by this Law or by the normative act of the Head of the Personal Data Protection Service issued on the basis of this Law.

3. The activities of the Personal Data Protection Service shall be financed from the state budget of Georgia. Allocations necessary for the activities of the Personal Data Protection Service shall be determined by a separate unit of the state budget of Georgia. The current expenses allocated from the state budget of Georgia for the Personal Data Protection Service compared to the amount of budget funds of the previous year may be reduced only with the prior approval of the Head of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>9</sup> – Independence of the Personal Data Protection Service**

1. The Personal Data Protection Service shall be independent in exercising its powers and shall not be subject to any body or official. Any influence on the Head of the Personal Data Protection Service and employees of the Personal Data Protection Service and illegal interference in their activities shall not be allowed and shall be punishable by law.

2. In order to ensure the independence of the Personal Data Protection Service, the State is obliged to create appropriate conditions for activities.

3. The Head of the Personal Data Protection Service has the right not to testify in connection with the performance of the functions of monitoring the legality of data processing, conducting covert investigative actions and the activities carried out in the electronic data identification central bank due to the fact that he/she has been disclosed such information as the Head of the Personal Data Protection Service. Such right shall be preserved even after the termination of the powers of the Head of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Article 40<sup>10</sup> – Annual report of the Personal Data Protection Service**

1. The Head of the Personal Data Protection Service shall submit to the Parliament of Georgia once a year, not later than 31 March, a report on the status of data protection in Georgia, the monitoring of the conduct of covert investigative actions, and the activities carried out in the electronic data identification central bank.

2. The annual report of the Personal Data Protection Service shall contain information on the activities carried out by the Personal Data Protection Service in the field of data protection during the reporting period, general assessments related to the status of data protection in Georgia, conclusions and recommendations, information on significant violations identified during the year and measures taken, general statistical information on the activities carried out in the field of monitoring the conduct of covert investigative actions.

3. Once a year, the Head of the Personal Data Protection Service shall submit a report on the results of monitoring the investigative actions provided for by Articles 136-138 of the Criminal Procedure Code of Georgia and the covert investigative actions provided for by Article 143<sup>1</sup> (a and b) of the same code, to the Parliamentary Committee and the Trust Group set in accordance with the procedures established by the Parliamentary Bureau based on the Rules of Procedure of the Parliament of Georgia.

4. Information on the activities carried out by the Personal Data Protection Service, taking into account the limitations established by this article, shall be provided to the public through the website of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Chapter V<sub>2</sub> – Powers of the Personal Data Protection Service in the Field of Data Protection and Monitoring the Conduct of Covert Investigative Actions**

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Article 40<sup>11</sup> – Main fields of activities of the Personal Data Protection Service in the area of data protection**

The Personal Data Protection Service shall monitor the legality of data processing in Georgia. The main fields of activity of the Personal Data Protection Service in this area shall be:

- a) consulting on issues related to data protection;
- b) reviewing applications related to data protection;
- c) checking the legality of data processing (inspection);
- d) providing information to the public on the state of data protection in Georgia, important events related thereto, and raising the awareness.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*



### **Article 40<sup>12</sup> – Review of the application of the data subject by the Personal Data Protection Service**

1. The Personal Data Protection Service is obliged to review the application of the data subject regarding the processing of data and to apply the measures provided for by the legislation of Georgia.
2. Within 10 days of receiving the data subject's application, the Personal Data Protection Service shall take a decision on the measures to be applied, and inform the applicant thereof.
3. The Personal Data Protection Service shall be authorised to carry out an inspection in order to study and investigate the circumstances related to the data subject's application. Any data processor and/or data controller is obliged to hand over relevant material, information and/or documents to the Personal Data Protection Service upon request.
4. The term of reviewing the application of the data subject by the Personal Data Protection Service shall not exceed 2 months. Based on the grounded decision of the Personal Data Protection Service, the period of review of the application of the data subject may be extended for no more than 1 month.
5. The Personal Data Protection Service shall be authorised to suspend the relevant proceedings during the review of the data subject's application on the basis of requesting additional material, information and/or documentation, of which the data subject shall be informed. The review of the data subject's application will continue upon the cancellation of the said grounds. The period of suspension of proceedings shall not be included in the period provided for by paragraph 4 of this article.
6. The Personal Data Protection Service shall be authorised to take a decision on data blocking before the review of the data subject's application is completed. Despite the blocking of data, the processing of the data may continue if it is necessary to protect the vital interests of the data subject or a third party, as well as for the purposes of state security and state defence.
7. After reviewing the application of the data subject, the Personal Data Protection Service shall take a decision on the use of one of the measures provided for by Article 40<sup>14</sup> of this Law, and inform the data subject and the data processor and/or the data controller thereof in accordance with the procedure established by the legislation of Georgia and within the established period.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

### **Article 40<sup>13</sup> – Inspection by the Personal Data Protection Service**

1. The Personal Data Protection Service shall be authorised to carry out an inspection of any data processor and/or data controller on its own initiative or based on the application of an interested person. The Head of the Personal Data Protection Service shall take a decision to carry out the inspection provided for in this article.
2. Inspection by the Personal Data Protection Service involves:
  - a) the determination of compliance with the principles of data processing and the existence of legal grounds for data processing;

b) the checking of the conformity of organisational and technical measures and procedures conducted for data security with the requirements established by the legislation of Georgia;

c) The checking of the fulfilment of the requirements established by this Law regarding the file system catalogue, the file system catalogue registry, and the registry of data release;

d) the checking of the legality of data transfer to another state and international organisation;

e) the checking of the compliance with the rules and requirements established by this Law, the Law of Georgia 'On Personal Data Protection', and other normative acts;

3. The Personal Data Protection Service shall be authorised to request documents and/or information, including information containing state, tax, banking, commercial, professional secrets and/or data, from any institution, natural and/or legal person during the inspection, as well as, the material and/or documentation and/or information describing operative and investigative activities and crime investigation, which belong to the State secret and which are necessary to carry out the inspection within the scope established by paragraph 2 of this article.

4. The data processor and/or data controller is obliged to provide any material, information and/or document to the Personal Data Protection Service immediately, no later than 10 working days, if the response to the request of information requires:

a) the finding and processing information in another institution or structural unit or the consulting with the said institution or unit;

b) the search for and the processing of a significant volume of information/documents.

5. The Personal Data Protection Service shall be authorised to extend the period referred to in paragraph 4 of this article by no more than 10 working days based on the reasonable application by the data processor and/or data controller.

6. The Personal Data Protection Service shall be authorised to visit any institution and organisation for inspection and to obtain any document and information, including information containing state, tax, banking, commercial, professional secrets and/or data, as well as the material and/or documentation and/or information describing operative and investigative activities and crime investigation, which belong to the State secret, despite their content and the mode of storage.

7. Taking into account the results of the inspection, the Personal Data Protection Service shall be authorised to apply the measures provided for in Article 40<sup>14</sup> of this Law.

8. An employee of the Personal Data Protection Service is obliged to secure information containing any kind of secret and not to disclose the secret information that he/she has become aware of during the performance of his/her official duties. Such obligation shall survive after the termination of the authority of the employee of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>14</sup> – Use of measures by the Personal Data Protection Service**

1. If the Personal Data Protection Service identifies a violation of this Law or another normative act regulating data procession, the Service shall be authorised to use one or several of the following measures at the same time:

- a) request the eradication of violations and deficiencies related to data processing in the form and within the period specified by it;
- b) request the suspension or termination of data processing, if the measures and procedures for the protection of data carried out by the data processor or a data controller do not comply with the requirements established by the legislation of Georgia;
- c) request the termination of data processing, blocking, deletion, destruction or depersonalisation of data, if the Service believes that data processing is carried out in violation of the legislation of Georgia;
- d) request the termination of data transfer to another state and international organisation, if data transfer is carried out in violation of the legislation of Georgia;
- e) give written advice and make recommendations to the data processor and/or the data controller in the case of minor violation of the procedures related to data processing;
- f) impose administrative liability on the violator.

2. The data processor and/or data controller is obliged to fulfil the requirements within the period specified by the Personal Data Protection Service, and to inform the Personal Data Protection Service thereof.

3. If the data processor and/or data controller does not comply with the requirements of the Personal Data Protection Service, the Personal Data Protection Service has the right to apply to a court, a law enforcement body and/or a supervisory (regulatory) state institution determined by the relevant legislation of Georgia.

4. If the Personal Data Protection Service identifies an administrative offense, it shall be authorised to draw up an administrative offense report and, accordingly, impose the administrative liability on the data processor and/or data controller in accordance with the law of Georgia 'On Personal Data Protection' and the Administrative Offenses Code of Georgia.

5. If the Personal Data Protection Service believes that there are signs of a crime during performance of its activities, it is obliged to inform the authorised state body thereof in accordance with law.

6. The compliance with the decision of the Personal Data Protection Service in the field of data protection shall be mandatory and may only be appealed in a court in accordance with law.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>15</sup> – Consultation and implementation of educational activities by the Personal Data Protection Service**

1. The Personal Data Protection Service is obliged to advise state authorities, municipal authorities, other public institutions, legal entities under private law and

natural persons on any issue related to data processing and data protection in the event of a relevant request.

2. The Personal Data Protection Service shall carry out educational activities on issues related to data processing and data protection.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

**Article 40<sup>16</sup> – Monitoring of the conduct of covert investigative actions and the activities carried out in the electronic data identification central bank**

1. During the conduct of the covert investigative action - secret eavesdropping and recording of the telephone communication provided for by Article 143<sup>1</sup>(1)(a) of the Criminal Procedure Code of Georgia, the Personal Data Protection Service shall monitor:

- a) through the electronic control system – the legality of data processing;
- b) through the special electronic control system – the legality of data processing;
- c) the legality of data processing by the data processor/data controller (inspection).

2. The Personal Data Protection Service shall carry out the monitoring of the investigative activities provided for by Articles 136-138 of the Criminal Procedure Code of Georgia by comparing the information provided by the court, the prosecutor's office and the electronic communication service provider and by checking (inspecting) the legality of data processing by the data processor/data controller.

3. The monitoring of covert investigative actions provided for by Article 143<sup>1</sup> (1) (b, d, and f) of the Criminal Procedure Code of Georgia shall be carried out by the Personal Data Protection Service by checking (inspecting) the legality of data processing by the data processor/data controller.

4. The monitoring of covert investigative actions provided for by Article 143<sup>1</sup> (1) (e) of the Criminal Procedure Code of Georgia shall be carried out by the Personal Data Protection Service by checking (inspecting) the legality of data processing by the data processor/data controller, in accordance with the procedures provided for by this Law. In the case provided for by this paragraph, when carrying out checking (inspection), information about the identity of a person participating in the conduct of covert investigative actions (except for a data subject, an investigator and a prosecutor) and the permit to participate in the process of carrying out inspection, as well as information on the characteristics of operational and operational-technical equipment used during the conduct of the covert investigative actions provided for in this paragraph, may be requested only with the approval of the head of the body conducting the covert investigative action. In the case provided by this paragraph, the implementation of the inspection shall not cover the direct participation in the process of preparing/conducting the covert investigative action and the on-site inspection of a disguised residential or service place or other disguised facility and building.

5. The Personal Data Protection Service shall monitor the conduct of covert investigative actions provided for by Article 143<sup>1</sup>(1) (c) of the Criminal Procedure Code of Georgia, as well as the implementation of the measure provided for by Article 7 (3)(b) of the Law of Georgia 'on Operative-Investigative activities' with a special electronic system of controlling the determination of the geo-location in real time, and

the control (inspection) of the legality of data processing by the data processor/data controller.

6. The activities carried out in the electronic data identification central bank shall be monitored by the Personal Data Protection Service through the electronic system of monitoring of the electronic data identification central bank and by checking (inspecting) the legality of data processing by the data processor/ data controller.

7. During the inspection of the Agency, the Personal Data Protection Service shall be authorised to:

- a) enter the area of limited access of the Agency and monitor the implementation of activities by the authorised bodies in the on-going mode;
- b) acquire the legal documents and technical instructions regulating the activities of the Agency (including those containing state secrets);
- c) obtain information on the technical infrastructure used for the purposes of covert investigative actions and inspect the infrastructure;
- d) request explanations from the Agency employees with respect to individual issues identified during the inspection;
- e) exercise other powers provided for by this Law.

8. Employees of the Agency is obliged to cooperate with the Personal Data Protection Service - to provide the Personal Data Protection Service with the requested information and documents, as well as to give explanations regarding the individual issues identified during the inspection.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

### **Chapter V<sup>3</sup> – Legal Protection and Social Security of Employees of the Personal Data Protection Service, and Employees of the Structural Unit Implementing the Official Inspection of the Personal Data Protection Service**

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>17</sup> – Legal protection of employees of the Personal Data Protection Service**

1. An employee of the Personal Data Protection Service shall be a representative of the state authorities and shall be protected by the State. The fulfilment of the lawful request of the employee of the Personal Data Protection Service shall be mandatory.

2. No one has the right to interfere with the official activities of the employee of the Personal Data Protection Service, except for the cases stipulated by law.

3. Obstructing an employee of the Personal Data Protection Service in the performance of his/her duties, encroaching upon his/her honour and dignity, showing non-abeyance, threat, violence or encroaching on his/her life, health or property, shall result in the liability established by the legislation of Georgia. In the case of being notified of the encroaching on the life, health and property of the Head of the Personal Data Protection Service, the First Deputy or Deputy Head of the Personal Data Protection Service, an employee of the Personal Data Protection Service or his/her family member in connection with the exercise of official powers, the state authorities

are obliged to implement the measures stipulated by law for their personal safety and the safety of their property.

4. An employee of the Personal Data Protection Service shall refuse to comply with an obviously unlawful order or instruction, had he/she known or should have known about its unlawfulness, and shall act within the scope of law.

5. An employee of the Personal Data Protection Service shall inform the Head of the Personal Data Protection Service in the case of the receipt of an obviously unlawful order or instruction.

6. An employee of the Personal Data Protection Service who refuses to comply with an obviously unlawful order or instruction shall not be held liable.

7. A person giving an obviously unlawful order or instruction to an employee of the Personal Data Protection Service shall be held liable in accordance with the procedures provided for by law.

8. An employee of the Personal Data Protection Service shall have the right to apply to the court to protect his/her rights and freedom;

9. An employee of the Personal Data Protection Service shall be given an identity card and/or a special badge to confirm his/her official powers, the form and manner of issuance of which shall be determined by the Head of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>18</sup> – Social security of employees of the Personal Data Protection Service with a special rank**

1. The State shall ensure the social security of an employee of the Personal Data Protection Service.

2. Unless otherwise stipulated by the legislation of Georgia, the social security guarantees of an official provided for by the Law of Georgia 'on Public Service' shall apply to an employee of the Personal Data Protection Service (including the social security guarantees related to bodily injury or death during the performance of official duties).

3. An employee of the Personal Data Protection Service shall have:

- a) the official salary determined in accordance with paragraph 5 of this article;
- b) the salary increment and monetary reward established in accordance with paragraph 5 of this article and the Law of Georgia 'on Remuneration in Public Institutions';
- c) the remuneration corresponding to the special rank, if he/she has the special rank;
- d) the salary increment according to the years of service;
- e) other increments and compensations provided for by the legislation of Georgia.

4. An employee of the Personal Data Protection Service shall have the right to receive the appropriate state compensation or state pension in accordance with the legislation of Georgia.

5. The amount of and procedures for remuneration of an employee of the Personal Data Protection Service, the amount increments according to the rank and years of

service, as well as the amount of other increments and compensations provided for by the legislation of Georgia shall be determined by the normative acts of the Head of the Personal Data Protection Service and other legislative and subordinate normative acts of Georgia.

6. An employee of the Personal Data Protection Service shall be subject to mandatory state insurance. The matters related to the state insurance of family members of employees of the Personal Data Protection Service (including the circle of family members) shall be determined by the Head of the Personal Data Protection Service.

7. The special ranks of employees of the Personal Data Protection Service shall be determined by the Law of Georgia 'on Special State Ranks.'

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*

#### **Article 40<sup>19</sup> – Selection, appointment and powers of employees of the structural unit carrying out official inspection of the Personal Data Protection Service**

1. An employee of the structural unit carrying out official inspection of the Personal Data Protection Service (except for the case provided for by paragraph 2 of this article) shall be appointed to the position on the basis of a competition, by an order of the Head of the Personal Data Protection Service. The rules and conditions of the competition for the selection and appointment of an employee of the structural unit carrying out the inspection of the Personal Data Protection Service, as well as the qualification requirements of the person to be appointed (the basic requirements, which should not be less than the basic requirements established by Article 27 of the Law of Georgia 'on Public Service', special requirements and additional requirements) shall be determined by this law and the corresponding legal act of the Head of the Personal Data Protection Service. In order to select and appoint an employee of the structural unit carrying out official inspection of the Personal Data Protection Service, the Head of the Personal Data Protection Service shall establish a competition commission and determine the rules of its activity.

2. It shall be permissible to transfer to another institution, without a competition, of an employee of the structural unit carrying out official inspection of the Personal Data Protection Service based on the principle of mobility, or to carry out his/her horizontal transfer as provided for by the Law of Georgia 'on Public Service'.

3. The powers and duties stipulated by this Law and the corresponding legal act of the head of the Personal Data Protection Service shall apply to an employee of the structural unit carrying out the official inspection of the Personal Data Protection Service.

*Law of Georgia No 1313 of 30 December 2021 – website, 13.1.2022*