

Based on Article 30 of the Law on Classified Information (Official Gazette of the Republic of Macedonia, no. 9/2004), the Government of the Republic of Macedonia at its session held on 07.03.2005, passed the

DECREE ON INDUSTRIAL SECURITY OF CLASSIFIED INFORMATION

General provisions

Article 1

This Decree regulates the measures and activities for industrial security of classified information:

- protection from misplacing or compromising of classified information contained in industrial agreements;
- issuing of security clearances to legal entities and natural persons that produce, use or have contact with industry related classified information;
- protection from misplacing or compromising of classified information in consortia and mixed enterprises with foreign legal entities and natural persons;
- ensure protection during transportation of classified information; and
- establishing procedures for visits of legal entities and natural persons from other countries to facilities and industrial associations where classified material is produced, processed and kept.

Article 2

When taking measures and activities for industrial security, particular attention shall be paid to:

- the level of classification;
- the scope and shape of the classification level; and
- the threat assessment for the security of classified information and materials.

Classified information in classified contracts

Article 3

Each participant in the execution of the industrial contract that includes classified information (hereinafter referred to as "the contract") shall consistently and conscientiously adhere to the subscribed rules for protection of the contract, in order to avoid misplacing or compromising of the classified information contained therein.

In case of noticed security risk, the competent bodies and persons shall immediately be informed in order to take measures to prevent the risk and to remove the possible negative consequences.

The legal entity shall establish a security system within the facility where the contract is to be executed.

The person at the head of the company shall appoint an authorised security person to implement the subscribed security measures for the execution of the contract; for security vetting of the persons involved in the contract and for the implementation of the approved industrial security related standards.

Article 4

Before taking part in the contract, the persons involved as lawyers, experts, consultants or in a similar capacity, which will use classified information, need to have a relevant personnel security clearance (PSC) commensurate to the classification level of the information used in the contracts.

Article 5

Records shall be kept from each meeting during the negotiations and they shall include personal data of the participants; the purpose of the meeting and the conclusions from the mutually agreed standpoints concerning the contents of the contract and the manner of protection of the classified information during the execution of the contract.

The records and the other materials classified as CONFIDENTIAL and above shall be safeguarded according to the Decree on Administrative Security.

Article 6

In a case when the execution of the contract starts in the Republic of Macedonia and then continues in a number of other countries, or gets transferred from one country to another, the Directorate for Security of Classified Information (hereinafter referred to as "the Directorate") shall establish relations with the competent authorities for protection of classified information in the countries where the execution of the contract has been transferred.

Depending on the complexity and the nature of the contract, and in order to ensure its full protection, the authorised persons may subscribe leading guidelines in a form of instructions on the security aspects, when more complex projects are in question.

Article 7

For fact finding purposes, during the implementation of the security measures of the contracts, the responsible persons shall conduct regular and alternating controls.

Article 8

Not later than five days from the execution or termination of the contract, the legal entity shall return to the Directorate all the received classified information and the required records and other materials.

Article 9

Facility Security Clearances (FSC) shall be issued to the legal entities and natural persons participating in the public acquisitions classified as CONFIDENTIAL only if they have been chosen as the most favourable bidders, according to the provisions of the Law on Public Acquisitions.

In case of urgent need of giving services, security vetting shall be conducted only of the persons that will participate in the realization of the public bidding.

Issuing of Facility Security Clearances

Article 10

In the request submitted to the Directorate, the legal entity and the natural person shall state the reasons for which the FSC is requested, the main features of the contents of the contract and the plan of the envisaged security measures to be taken in relation to the protection of the classified information and materials, and the level of their classification.

The request shall also include the time limit when the execution of the contract is envisaged, as well as the involvement of possible foreign participants in the contract.

When the contract is executed in a number of countries, the request for FSC shall include the names of the countries and of the companies participating in the contract.

Article 11

Request for a FSC in the course of public acquisitions shall be submitted by the entity organizing the bidding only for the participants that have entered the closer choice.

Article 12

The request referred to in Articles 10 and 11 of this Decree shall have attached the following papers:

- application for entering the commercial register;
- court decision for registration;
- paper containing the name and seat of the founder and the total amount of the capital of the founder and each of the investors;
- power of attorney of the subject for registering in the legal transactions;

- names of the persons authorised for representation and the extent of their authority, and for the foreigners also the papers subscribed in the Law on Companies;
- report and opinion on the business success (“bonité”) issued by the Central Registry of the Republic of Macedonia;
- confirmation from a relevant court that bankruptcy proceedings or liquidation procedure has not been opened;
- confirmation from a relevant court that no security measure for prohibition from practicing a profession has been delivered; and
- certificate from the Public Revenue Authority for paid taxes and other public allowances.

Transportation of classified information

Article 13

Transportation of classified information outside the security zones, from one building to another or abroad, shall be carried out by transporters that meet the legal requirements for this type of transportation.

The following measures and activities shall be enforced during the transportation:

- ensuring security of classified information at all stages during the transportation and under all circumstances, from the point of origin to the ultimate destination;
- identifying the degree of protection accorded to a consignment by the highest classification level of material contained within it;
- provision of the licenses required for uninterrupted transportation within the country and the international transportation;
- security vetting of the personnel handling the consignment corresponding to the highest classification level of the material;
- selection of routes through countries that are not threatened by war or crisis; and
- provision of approval by the competent authorities of the country through which transportation is being carried out.

Article 14

Packing of classified materials shall be done in a way that prevents revelation that material of certain level of classification is in question.

Packing shall be supervised by a security officer.

Article 15

If the transportation includes two or more consignments, each of them shall be identified separately and measures shall be taken according to the classification level of the material.

Reclassification of the material cannot be done during the transportation, except in utmost justified circumstances, in order to avoid bigger damages.

Article 16

Material classified as TOP SECRET shall be transported only in exceptional circumstances, in a special vehicle escorted by authorized officials of the Ministry of Defence, i.e. the Ministry of Interior, depending whether the classified material is related to defence or security.

The material classified as SECRET and CONFIDENTIAL shall be transported in closed freight carriers or in containers, with locks or a padlock, approved by a competent authority, as well as with vehicles that can be sealed.

Stopping at determined places during transportation shall be done according to a previously prepared consignment security plan.

Air and sea transportation shall be carried out under the same basic conditions as the land transportation.

Article 17

In an emergency: traffic accident, vehicle breakdown, natural disaster etc., the consignment shall be safeguarded during all times of its stopping at the determined place by security guards or the escorts.

Telephone connections or fax contacts during the transportation between the person responsible for the consignment and the guards or the escorts needs to be agreed in advance.

In case of electronic supervision of the vehicle, the measures referred to in paragraph 2 of this Article shall not be necessary.

Article 18

In conditions of increased risk for the consignment, security guard or escort shall be provided. Depending on the concrete risk assessment, the guards shall include military officers or civilians, armed or unarmed, depending on the need for efficient protection of the consignment.

The persons engaged as escorts or guards shall be given detailed instructions how to handle the consignment.

Article 19

Customs officials shall not open the consignments involving classified information without a justified reason. When the customs authority shall decide to

open the consignment, the opening shall be carried out without the presence of uninvited persons and always in the presence of the person who is transporting the consignment. After having checked the consignment, the customs officials shall repack the consignment and confirm the unpacking of the consignment in the subscribed manner.

International visits

Article 20

Visits of representatives of foreign legal entities and natural persons to buildings and companies in the Republic of Macedonia and vice versa, shall be accomplished on the basis of the obligations stemming from the agreements and upon an invitation by the competent authorities.

Article 21

Visitors shall be given access only to the classified information and materials related to the purpose of the visit.

The authorised persons shall keep records of the individuals participating in the meetings and the visited buildings and premises.

The records shall include the mutually agreed standpoints on the security of the contracts.

Article 22

The visits referred to in Article 20 of this Decree may occur once, repeatedly and urgently.

Visits occurring once shall be carried out in a period of thirty days and cannot be repeated in the course of one year.

The repeated visits shall be carried out in a period up to one year and shall be aimed at meeting specific needs of the agreements.

The urgent visits, by rule, shall occur once and shall be carried out because of emergencies or because of their significance to the agreement that could not be predicted with the standard procedures.

The set dates of the visits, by rule, shall not be changed, and particularly the dates set for the urgent visits.

Article 23

The urgent visits related to agreements classified RESTRICTED and CONFIDENTIAL may be organised through direct cooperation between the persons authorised for security of the participants in the contract.

Article 24

The visit shall be initiated with a written request by the interested person, which shall explain the purpose of the visit in details and its duration.

In emergency, the request may be announced orally, but it shall be confirmed in written afterwards.

The request referred to in paragraph 1 of this Article shall include the names of the visitors along with data for their identification.

During the repeated visits new request with the information stipulated in paragraph 3 of this Article shall be submitted for each new visit.

Article 25

After having verified that all the necessary conditions for carrying out the visit have been fulfilled, the responsible person shall inform the person submitting the request that the visit has been accepted.

In particularly urgent cases, and in order to avoid damages, they can be informed orally, but before the visit begins they shall also receive a written confirmation that the visit can be carried out during the set timeframe.

During the execution of complex contracts, specific procedures for international visits may be envisaged, in order to achieve maximum efficiency in the execution of the contract.

Final provision

Article 26

This Decree shall enter into force on the eight day from the day of its publication in the "Official Gazette of the Republic of Macedonia".