

# MANAGEMENT OF CLASSIFIED INFORMATION WITHIN THE ORGANISATION FOR INTERDICTION OF CHEMICAL WEAPONS

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## Abstract

*In the relation with international bodies, the Romanian authorities must observe its own rules related to security of confidential information, and in the relations with other authorities, branches, companies from Romania, they have the obligation to observe the national legislation.*

*This work mechanism, with two different systems of information security, imposes, on level of competent Romanian authorities, some internal rules of equivalence of confidentiality levels, approved by ORNISS. As national authority in the field of security of classified information, ORNISS must know and hold a record of all equivalence regulations of confidentiality levels operated by different international bodies with those of internal legislation.*

**Keywords:** *classified information, national authorities, Organization for prohibition of chemical weapons, security systems.*

## 1. Introduction

The classified information<sup>1</sup> circulates in the relations of Romanian authorities with different international bodies: NATO, EU, European Central Bank, International Atomic Energy Agency (IAEA), Organisation for Prohibition of Chemical Weapons (OPCW) and others.

An interesting and highly rigorous system of protection of classified information has been implemented by the Convention for prohibition of development, production, storage and use of chemical weapons and destruction of it. On level of European Union, one has adopted the Decision (PESC) 2015/259<sup>2</sup> of Council dated 17<sup>th</sup> February 2015 on the support awarded to the activities of the Organisation for Prohibition of Chemical Weapons (OPCW) for the implementation of EU strategy against proliferation of weapons of mass destruction, article 1 par. (1) stipulating that „*For immediate and actual enforcement of certain elements of EU strategy, the Union supports the activities of OPCW, for the following objectives:*

- consolidation of capacity of member states to meet the obligations incumbent upon it in terms of CWC;
- increase of level of preparation of member states to prevent attacks involving toxic chemical products and to defeat it;
- intensification of international cooperation in the field of chemical activities;

- support of OPCW capacity to adjust to evolutions in the field of science and technology;
- promotion of universality by encouraging non-member states to adhere to the convention”.

Romania has signed the Convention on the first day of opening for signing and ratified it on 9<sup>th</sup> December 1994, by Law no.125/1994<sup>3</sup>.

In order to reach its objective, the Convention has instituted a rigorous regime of verification of non-production of chemical weapons in peaceful industry and destruction of existing inventories, by annual declarations and inspections on site.

The enforcement of verification system involves a high volume of information, contained in declarations or obtained by international inspectors.

The Convention pays special attention to the measures of protection of classified information, called confidential, with express disposals in „Annex of confidentiality”, for a fair balance between security, freedom and private life<sup>4</sup>, in the global context of influencing the international cooperation by a range of specific factors such as crises, conflicts and international tensions<sup>5</sup>.

## 2. Organization for Prohibition of Chemical Weapons

This organization has the seat in Hague and includes three bodies: Conference of Member States; Executive Board; Technical Secretariat.

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<sup>1</sup> V. Păun, *Competitiveness by information*, Pideia Publishing House, Bucharest, 2006, p. 17; S. Petrescu, *Art and power of information*, Military Publishing House, Bucharest, 2003, p. 99

<sup>2</sup> Published in the Official Journal of European Union no. 43 dated 18.02.2015.

<sup>3</sup> Published in the Official Journal of Romania, Part I, nor. 356 dated 22<sup>nd</sup> December 1994.

<sup>4</sup> D. C. Miță, *National Security. Concept. Regulation. Means of protection*, Hamangiu Publishing House, Bucharest, 2016, p. 117.

<sup>5</sup> L. A. Ghica, M. Zulean, *Policy of National Security*, Polirom Publishing House, Iași, 2007, p.206.

The Conference of Member States<sup>6</sup> is the main body of the Organization for Prohibition of Chemical Weapons and includes the representatives of all member states, together with alternates and counsellors.

The Executive Board<sup>7</sup> is the executive body of OPCW, formed of 41 members, elected on 2-year term, fairly representing the 5 regional groups. It gathers 4-6 times per year in ordinary sessions, as well as on need, in extraordinary sessions. It presents reports in the Conference of Member States, it supervises the activity of Technical Secretariat and cooperates with national authorities of member states.

The Technical Secretariat<sup>8</sup> is liable for daily enforcement of Convention, supporting the Conference of Member States and the Executive Council in exercising its functions. It centralises and checks the information supplied by member states in the initial and annual declarations.

The Technical Secretariat is managed by a general manager elected by the Conference of Member States for 4 years, and includes operative divisions and other structures.

The 4 operative divisions with the component services are:

- Division verification with the following services: declarations, confidentiality, elaboration and analysis of politics, verification in industry and chemical demilitarisation;
- Inspectorate with the following services: operations and planning, inspection management, analysis of inspections and inspection staff;
- Division of external relations with the following services: relations with governments and political problems, public relations and protocol;
- Division of international cooperation and support with the following services: international cooperation, protection and emergency support.

Note the existence in the structure of the Division verification of Confidentiality Service. The subsidiary bodies includes the Board for settlement of disputes of confidentiality or, briefly, the Board for confidentiality. It includes 20 members elected for 2-year term by the Conference of Member States, on proposals of regional groups, based on competence, integrity and preparation.

### 3. Classification of information within the Organization for Prohibition of Chemical Weapons

In the system of Convention, information is defined based on its capacity and potential to supply, directly or indirectly, data and knowledge, regardless the composition or tangible or intangible nature<sup>9</sup>.

The information includes all means which may be used for procurement, transmission or storage of data or knowledge obtained by a person or Organization during the process of enforcement of Convention.

The information may be documents with written data: graphics, schemas, numerical, symbolic, analogical, photographic; photo or video records on inspection; data stored or presented on electronic, magnetic or other physical support<sup>10</sup>. Also, the materials, objects, equipments and even personal objects may represent sources of information. For instance, if an operator within a chemical installation wears gas mask or other relevant protective equipment, the information concluded is that in the installation is present a toxic substance.

The convention related to interdiction of chemical weapons stipulates that all information obtained or communicated by the Organisation for Prohibition of Chemical Weapons (OPCW), deemed confidential, is classified in relevant categories based on sensitivity level.

In determining the sensitivity level of an information the following factors are considered:

- potential level of damages which may be caused by revealing the information to a member state, public institutions, companies or citizens;
- level of potential advantage which the reveal of information may bring to a state, body, company or person.

Related to such factors, the confidential information is classified in three categories:

OPCW – limited access (OPCW Restricted, engl., OPCW Restreinte, fr.);

OPCW – protected (OPCW Protected, engl., OPCW Protegee, fr.);

OPCW – highly protected (OPCW Highly Protected, engl., Hautement Protegee, fr.).

The information not included in any of the categories mentioned is deemed unclassified and properly marked: unclassified (English) and non classees (French).

The information supplied by member states is classified by the authorities within such states; if a state may communicate to the Organisation for Prohibition

<sup>6</sup> Art. VIII let. B point 9-22 of Convention for prohibition of development, production, storage and use of chemical weapons and destruction of it.

<sup>7</sup> Art. VIII lett. C point 23-36 of Convention for prohibition of development, production, storage and use of chemical weapons and destruction of it.

<sup>8</sup> Art. VIII lett. D point 37-47 of Convention for prohibition of development, production, storage and use of chemical weapons and destruction of it.

<sup>9</sup> S. Petrescu, *quoted work* pp. 79-94.

<sup>10</sup> M. Petrescu, N. Năbârjoiu, M. Braboveanu, *Information management, vol II – Information and security*, Bibliotheca Publishing House, Târgoviște 2008, p. 125.

of Chemical Weapons (OPCW) information which seem confidential, without mentioning the classification level, the general manager of OPCW has the obligation to classify provisionally, to manage it according to such classification and contact the state supplying the information to confirm, amend or change the provisional classification;

The confidential information generated by Technical Secretariat of OPCW is provisionally classified by the officers issuing it. The final classification is the responsibility of general manager or deputy general manager of OPCW.

During the inspection, the initial classification of data is dealt with by the representative of the member state inspected, classification observed as well by the team of inspectors of OPCW during the entire term of inspection. Note that each member state has full authority in determining the classification level of the information supplied.

Usually, the classification assigned to an information remains in force until it ends the validity term determined on issuance or when changed during a reclassification or declassification process.

When it supplies to OPCW confidential information, the member states must state as well the duration of validity of classification level. If not stated the duration of validity of classification, the information is deemed to maintain its nature on indefinite term.

For a viable and effective protection of confidential information and to remove from archives the materials with confidential information with expired validity, the member states and the Technical Secretariat review the confidentiality nature assigned, either to continue enforcing it, or to reduce the category of classification or for declassification. Therefore, periodically, the Confidentiality Service of Technical Secretariat elaborates and implements programs for destruction of information held by Organization. In this respect, it is required the written consent of member states supplying the information, as well as of the states mentioned in the information elaborated by OPCW.

The change of classification category may be done only by the authority classifying the information or with its written consent. This rule is enforced both to the documents submitted by member states, and that elaborated by Technical Secretariat.

The reclassification of an information issued by Technical Secretariat or by a member state may be required when reviewed and amended or completed so as to make a significant difference of confidentiality level

The declassification of confidential information represents passing it to a classification category in the position „unclassified”, thus without a confidential nature.

In case of declassification of information, the principles presented are also enforced to change the classification category.

The declassification of confidential information does not entail implicitly the right to publish. This needs a separate process of consultation and approval.

#### 4. Access and transmission of confidential information in OPCW system

The access and transmission of confidential information in OPCW system are ruled by two principles<sup>11</sup>:

- access to confidential information is ruled in conformity to the level of classification of it;
- the communication of confidential information is governed by the principle „need to know”.

Such principles generate two practical issues related to treatment and protection of confidential information:

- the level of classification of confidential information is essential in determining the procedures of communication and measures of protection of data;
- the beneficiaries of confidential information are determined based on their proved need to enter in the possession of it, only for enforcement of Convention.

The communication of confidential information to member states is governed by a disposal of Convention, according to which OPCW must regularly communicate to member states the data necessary to make sure that all other states consequently enforce the disposals of this international legal instrument.

The method of transmission by OPCW to a member state will entail a permanent protection, on a relevant level with the classification of such information.

Each member state which is an addressee has the obligation to manage the confidential information received in conformity to classification level of it and to supply to OPCW, on demand, details related to management of the information received.

The Convention rules as well the access to confidential data of other persons or bodies beyond the Technical Secretariat. The selection of laboratories to analyse the samples, the determination of authorised experts etc. are done only against an authorisation issued by the general director or other officer appointed by it, pursuant to determining the level to know, and strictly limited to minimum necessary for accomplishment of a requisite imposed by the enforcement of Convention.

All confidential information is kept and shared recording the identity of each person accessing it, the date and time of access.

The highly protected documents are supervised permanently, so as to be known exactly, on any moment, who had or has in possession such documents.

<sup>11</sup> For principles of informative activity, see, Petrescu, *quoted work*, pp. 27-31.

Each material or document containing confidential information is marked with a classification level. The confidential documents have coloured covers, as follows:

- red –OPCW HIGHLY PROTECTED;
- purple - OPCW PROTECTED;
- blue - OPCW RESTRICTED.

The multiplication of documents containing confidential information is done based on the fact that the need of number of copies corresponds to legitimate scope approved, so as to reduce it on minimum necessary, and the copies marked according to such level of confidentiality.

The number of copies is registered, and each copy is numbered. The copies are shared only to approved addressees, the operation being recorded in the special register. The additional copies or those no longer useful

are handed over for archiving or destruction, this operation being recorded as well.

The operations of destruction, respectively of transmission of confidential information, both on paper, and electronically, have no distinct nature. It must be mentioned only that the performance procedures of such operations are ruled by norms approved by the general manager.

## 5. Conclusions

In conclusion, the systems of management of classified information experienced and long applied within NATO<sup>12</sup> and EU, as well as within the Organization for Prohibition of Chemical Weapons may represent models for all those called to provide for security of classified information in Romania.

## References

- Ghica L. A., Zulean, M., *Policy of National Security*, Polirom Publishing House, Iași, 2007;
- Miță, D. C., *National Security. Concept. Regulation. Means of protection*, Hamangiu Publishing House, Bucharest, 2016;
- Păun V., *Competitiveness by information*, Pideia Publishing House, Bucharest, 2006;
- Petrescu S., *Art and power of information*, Military Publishing House, Bucharest, 2003;
- Petrescu M., Dogaru Ș. M., Năbârjoiu N., Boboc V., Dogaru H., Petrescu A. G., *Convention on prohibition of chemical weapons and information management within its system*, Publishing House of National Academy of Information, Bucharest, 2007;
- Petrescu M., Năbârjoiu N., Braboveanu M., *Information management, vol. II – Classified information*, Bibliotheca Publishing House, 2008;
- Petrescu M., Năbârjoiu N., *Information management, vol I - Information and security*, Bibliotheca Publishing House, 2006;
- Zamfir D., Raicu C., *Security environment and classified information*, Publishing House of National Academy of Information, Bucharest, 2010;
- Zulean M., *Security strategies*, 2<sup>nd</sup> edition, Tritonic Publishing House, 2017;
- Convention on prohibition of development, production and use of chemical weapons and destruction of it, Official Journal of Romania, Part I, no. 356 and 356 bis dated 22<sup>nd</sup> December 1994.

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<sup>12</sup> D. Zamfir, C. Raicu, *Security environment and classified information*, Mihai Viteazul Publishing House of National Academy of Information, Bucharest, 2010 p. 75.