Commonwealth of Independent States: Model Statute “On State Secrets”

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The Model Statute “On state secrets”, an advisory legislative instrument, was adopted by the Interparliamentary Assembly of CIS Member States on 16 June 2003. It confirms the legislative bans on disclosing information that constitutes a state secret, and those who break it face criminal, administrative, civil or disciplinary penalties that by that time had already existed in all post-Soviet countries.

By state secrets the statute understands “information of military, economic, political and other nature, disclosure of which inflicts or may inflict harm on the national security of the State” (Article 1).

The criterion used to determine the persons liable is set out in Article 5 of the Model Statute “On state secrets”: officials and persons who have undertaken or who have a duty by virtue of their position to comply with the requirements of legislation protecting state secrets. We should point out that this narrow definition of potentially liable parties is not always reflected in the criminal codes of the CIS States (as is the case in Tajikistan, for example). And this omission means it is unclear whether persons who have not given prior and voluntary non-disclosure undertakings, and who have not been told what the secrets are, or have not been officially vetted to receive them (including journalists), can actually be held to account for disclosing them.

The statute provides for a list of information that shall not constitute state secrets (Article 18), e.g. on privileges, monetary compensation and benefits provided by the government to citizens, officials and organisations, as well as on facts of violations of law by public entities and public officials.

Article 21 sets 30 years as the maximum term of secrecy, though it allows for exceptions by decisions of relevant governmental bodies.

Модельный закон «О государственных секретах», Информационный бюллетень, 2003, No. 31

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