

Russia

FEDERAL LAW

NO. 144-FZ OF AUGUST 12, 1995

ON OPERATIONAL-SEARCH ACTIVITIES

(with the Amendments and Additions of July 18, 1997, July 21, 1998,

January 5, December 30, 1999, March 20, 2001, January 10, June 30, 2003, June 29, August 22, 2004)

Adopted by the State Duma on July 5, 1995

The present Federal Law shall define the content of operational-search activities performed on the territory of the Russian Federation, and shall strengthen the system of the guarantees of legality in carrying out operational-search measures.

Chapter 1. General Provisions

Article 1. The Operational-Search Activity

The operational-search activity is the kind of activity, carried out openly or secretly by the operational subunits of the state bodies, authorized to do this by the present Federal Law (hereinafter referred to as the bodies, engaged in operational-search activities), within the scope of their jurisdiction by launching operational-search measures to protect life, health, the rights and freedoms of man and the citizen, as well as of property, and to provide for the security of society and of the state against criminal attempts.

Article 2. The Tasks of an Operational-Search Activity

The tasks of an operational-search activity shall be:

- to discover, prevent, suppress and reveal crimes, and to discover and identify the persons, who are preparing and committing or who have perpetrated them;
- to conduct searches for persons who are hiding from the inquest and the investigation bodies and from the court and who are avoiding the criminal punishment, and also searches for missing persons;
- to collect information on events or actions, creating a threat to the military, economic or ecological security of the Russian Federation.

Article 3. The Principles of an Operational-Search Activity

An operational-search activity shall rely upon the constitutional principles of the legality, the respect for and the observation of the rights and freedoms of man and the citizen, as well as upon the principles of cooperation and of combining open and secret methods and means.

Article 4. The Legal Base of an Operational-Search Activity

The legal base of the operational-search activity shall be comprised of the Constitution of the Russian Federation, of the present Federal Law and of the other federal laws, and also of the other legal normative acts of the federal state power bodies.

The bodies, engaged in the operational-search activity, shall issue, within the scope of their jurisdiction and in conformity with the legislation of the Russian Federation, the normative acts, regulating the organization and the tactics of carrying out the operational-search measures.

Article 5. Observation of the Rights and Freedoms of Man and the Citizen, While Performing the Operational-Search Activity

Federal Law No. 6-FZ of January 5, 1999 supplemented Article 5 of the present Federal law with new part one. Parts one - ten are deemed as parts two - ten correspondingly

While carrying on operational and investigation activities the bodies (officials) performing operational and investigation activities shall make sure the human rights and the rights of the citizen to inviolability of private life, personal and family secret, inviolability of home and correspondence secret.

The cooperation of operational-search activity to achieve the goals and to fulfil tasks, not stipulated by the present Federal Law, shall not be admitted.

The person, who believes that the actions of the bodies, engaged in the operational-search activity, have violated his rights and freedoms, shall have the right to appeal against these actions with the higher placed body, engaged in the operational-search activity, with the Prosecutor or with the court.

The person, whose guilt in the perpetration of the crime was not proved in conformity with the law-established order, i.e., the institution of the court proceedings against whom was refused, or the court proceedings on the criminal case against whom was terminated in connection with the absence of the criminal event or with the absence of the corpus delicti, and who disposes of the facts, proving that the operational-search measures were launched against him, and believes that in doing this his rights were violated, shall have the right to demand that the body, which has performed the operational-search activity, provide to him the data on the information, which it has collected on him, within the limits, compatible with the requirements of conspiracy and excluding the possibility of divulging the state secret. If the provision of the claimed data is refused, or if the said person believes that the data have not been supplied to him in the full volume, he shall have the right to appeal against this with the court. In the course of the case being examined in the court, the duty to prove that the refusal to supply the data to this person, including in the full volume, is well-grounded, shall lie with the corresponding body, engaged in the operational-search activity.

To ensure an exhaustive and comprehensive examination of the case, the body, performing the operational-search activity, shall be obliged to supply to the judge, upon his demand, the operational-official documents, containing the information on the persons, implanted into the organized criminal groups, as well as on the persons, rendering them assistance on the confidential principle, the supply of which was refused to the plaintiff.

If the decision of the body, engaged in the operational-search activity, on the refusal to provide the necessary information to the plaintiff is recognized as ungrounded, the judge may oblige the said body to supply to the plaintiff the information, stipulated in the third part of the present Article.

Federal Law No. 26-FZ of March 20, 2001 amended part 7 of Article 5 of this Federal Law

The materials, concerning the persons, whose guilt in perpetrating the crime is not proved in the law-established order, obtained as a result of carrying out the operational-search measures, shall be kept in the course of one year, after which they shall be destroyed, unless otherwise required by the official interests or by the justice. The audio-records and other materials obtained as the result of monitoring the telephone and other conversations of persons in respect of whom no criminal action has been taken shall be destroyed within six months after the termination of the monitoring, with a relevant report being drawn up. Three months prior to the date, fixed for the destruction of the materials, reflecting the results of the operational-search measures, carried out on the grounds of the court decision, the corresponding judge shall be informed about this.

The bodies (the official persons), engaged in the operational-search activity, shall be forbidden:

- to carry out the operational-search measures in the interest of a certain political party, a public or a religious association;
- to secretly participate in the work of the federal state power bodies, of the state power bodies of the subjects of the Russian Federation and of the local self-government bodies, as well as in the activity of the political parties, the public and the religious associations, registered in conformity with the established order and not banned, in order to exert an impact on the nature of their activity;
- to divulge the information, which infringes upon the inviolability of the private life, the personal and the family secret, the honour and the good name of the citizens and which has become known in the course of carrying out the operational-search measures, without the citizens' consent, with the exception of the cases, stipulated by the federal laws.

If the body (the official person), engaged in the operational-search activity, violates the rights and the legitimate interests of the natural and of the legal persons, the higher placed body, the Prosecutor or the judge shall be obliged to take measures, in conformity with the legislation of the Russian Federation, for the re-institution of these rights and legitimate interests, and for making good the harm thus done.

The violations of the present Federal Law, committed in performing the operational-search activity, shall entail the responsibility, stipulated by the legislation of the Russian Federation.

## Chapter II. Carrying out Operational-Search Measures

Federal Law No. 36-FZ of June 30, 2003 amended Article 6 of this Federal Law

### Article 6. The Operational-Search Measures

While performing the operational-search activity, the following measures shall be carried out:

1. The interrogation.
2. Making inquiries.
3. The collection of the samples for a comparative study.
4. The test purchase.
5. The examination of items and of documents.
6. The observation of subjects.
7. The identification of persons.
8. The examination of the premises, the buildings, the structures and the sites, and of the transportation means.
9. Exerting control over the mail and over the telegraph and the other kind of communications.
10. The bugging of telephone conversations.
11. The taking of the information off the technical communications channels.
12. The operational implanting.
13. The controlled supply.
14. Operational experiments.

The above list of operational-search measures may be amended or supplemented only by Federal Law.

In the course of carrying out operational-search measures, information systems, audio and video recordings, cinema films and photographs shall be made use of, as well as other kinds of technical and such like means, which do not cause damage to the life and health of the people and do not inflict any harm upon the natural environment.

The operational-search measures, involved in controlling the mail, the telegraph and other kind of communications, the bugging of telephone conversations with the linking up to the station apparatuses of the enterprises, institutions and organizations, regardless of their forms of ownership, as well as of the natural and the legal persons, who render services and provide the means of communication, with taking the information off the technical communications channels, shall be carried out using the operational-technical forces and the means of the bodies of the federal security service, the bodies of internal affairs and, of the bodies for control over the traffic of narcotics and psychotropic substances in conformity with the procedures, defined by the inter-departmental normative acts or by the agreements, signed between the bodies, engaged in the operational-search activity.

See Order of the Ministry of Communications and Information Technologies of the Russian Federation No. 130 of July 25, 2003 on the Procedure for Putting into Operation a Technical Facilities System to Support Operative Investigation within Telephone, Mobile, Wireless and Public-Use Personal Radio Call Communications Networks

The official persons of the bodies, engaged in the operational-search activity, shall fulfil its tasks by personally taking part in organizing and in carrying out the operational-search measures, while drawing on the assistance of the official persons and of the specialists, possessing the scientific, technical and other kind of the specific knowledge, as well as of certain citizens with their consent, both on the open and on the secret principle.

The carrying out of operational-search measures and the use of the special and other kinds of technical means, intended (designed, adjusted, programmed) for secretly obtaining the information, by the natural and by the legal persons, not authorized to do this by the Federal Law, shall be forbidden.

The importation to the Russian Federation and the export beyond its boundaries of special technical means, intended for secretly obtaining information by natural and persons, and legal entities not authorized to engage in operational-search activity, shall be liable to licensing in conformity with the procedure, laid down by the Government of the Russian Federation.

The list of the kinds of the technical means, intended for secretly obtaining the information in the course of performing the operational-search activity, shall be compiled by the Government of the Russian Federation.

The development, manufacture, sale, acquisition for the purposes of sale of special technical facilities intended for covert information gathering by the individual entrepreneurs and legal persons pursuing entrepreneurial activity shall be subject to licensing in compliance with the legislation of the Russian Federation.

*Regulations for Licensing the Activities of Natural Persons and Legal Entities Not Authorized to Carry out Crime Detection Operations Connected with the Development, Manufacture, Sale, Acquisition for Sale, Importation to the Russian Federation and Exportation Behind Its Borders of Special Technical Means Designed (Developed, Adjusted, Programmed) for the Secret Obtaining of Information and the List of Special Technical Means Designed (Developed, Adjusted, Programmed) for the Secret Obtaining of Information in the Process of Carrying out Crime Detection Operations were approved by the Decision of the Government of the Russian Federation No. 770 of July 1, 1996*

*Concerning the measures for regulating the development, production, realization, acquisition for the purposes of sale, importation into the Russian Federation and exportation therefrom, and also the use of special technical facilities intended for secret obtaining of information see Decree of the President of the Russian Federation No. 21 of January 9, 1996*

### Article 7. The Grounds for Carrying out Operational-Search Measures

The grounds for launching operational-search measures shall be:

1. The existence of an instituted criminal case.
2. The information, which has become known to the bodies, engaged in the operational-search activity:
  - 1) on the signs, showing that an unlawful act is being prepared or committed, or has been perpetrated, as well as on the persons, who are preparing or committing it or have perpetrated it, if the information is insufficient to resolve the question of instructing a criminal case;
  - 2) on events or the actions, creating a threat to the state, military, economic or ecological security of the Russian Federation;
  - 3) on persons, hiding from the bodies of inquest and of investigation and from the court, or on those avoiding the criminal punishment;
  - 4) on missing persons and on finding the unidentified corpses.
3. The orders from the investigator or from the inquest body, the instructions from the prosecutor or the ruling of the court on the criminal cases in the process of examination.
4. The inquiries of the other bodies performing operational-search activities, on the grounds indicated in the present Article.

5. A decision on applying the measures, aimed at ensuring the security of protected persons, implemented by the specially authorized state bodies, in conformity with the procedure, envisaged by the legislation of the Russian Federation.

6. The inquiries of the international law-protection organizations and of the law-protection bodies of foreign states in conformity with the international treaties of the Russian Federation.

The bodies, carrying out the operational-search activity, shall also have the right to collect the information, necessary for passing decisions, within the scope of their jurisdiction:

1. On giving access to the information, which is a state secret;
2. On the admittance to different kinds of the work, connected with the exploitation of objects, presenting a heightened threat to the life and health of the people, as well as to the environment;
3. On the admittance to participation in an operational-search activity or on access to the materials obtained as a result of its performance;
4. On establishing or on maintaining cooperative relations when preparing and carrying out operational-search measures;
5. On providing security for the bodies, engaged in operational-search activity;
6. On issuing permits for private detective and guarding activities.

#### **Article 8. The Terms for Carrying out Operational-Search Measures**

The citizenship, nationality and sex, place of residence, property, the official and the social position, the affiliation to public associations, the attitude towards religion and the political views of the individual persons shall not be an obstacle to launching with respect to them the operational-search measures on the territory of the Russian Federation, unless otherwise stipulated by the Federal Law.

*Federal Law No. 6-FZ of January 5, 1999 introduced amendments to paragraph one of part two of Article 8 of the Present Federal Law*

The conduct of operational and investigation activities limiting the constitutional human rights and the rights of the citizen to the secret of correspondence, telephone, postal, telegraph and other messages transmitted via telecommunications networks and postal communications as well as the right to the inviolability of home shall be permitted under a court decision and if information is available:

1. On the signs of an unlawful action, being prepared or committed, or already perpetrated, by which it is necessary to carry out the preliminary investigation;
2. On the persons, who are preparing or committing, or have perpetrated, an unlawful action, by which it is necessary to carry out the preliminary investigation;
3. On the events or the actions, creating a threat to the state, military, economic or ecological security of the Russian Federation.

In the cases, which cannot be procrastinated and which may lead to perpetrating a grave crime, and also if there is information on the events and actions, creating a threat to the state, military, economic or ecological security of the Russian Federation, the carrying out of the operational-search measures, envisaged in the second part of the present Article, shall be admitted on the ground of a motivated decision of one of the heads of the body, engaged in the operational-search activity, with an obligatory notification within 24 hours of the court (the judge). In the course of 48 hours from the moment of starting the operational-search measure, the body, carrying it out, shall be obliged to obtain a court decision on carrying out such an operational-search measure, or to cease its carrying out.

*Federal Law No. 26-FZ of March 20, 2001 supplemented Article 8 of this Federal Law parts 4 and 5 in a new wording. Parts 4 - 8 shall be deemed Parts 6 - 10 respectively*

Telephone and other conversation monitoring is permitted only in respect of persons suspected or accused of grave and especially grave crimes and also persons who can have information on such crimes. The audio-records obtained as the result of telephone and other conversation monitoring shall be stored in sealed form in conditions precluding a possibility for them being heard and copied by unauthorized persons.

In the case of criminal action in respect of a person whose telephone and other conversations are being monitored under the present Federal Law the conversation on audio-records and on paper shall be passed to an investigator to be joined to the criminal case-file as evidence. The further procedure for the use thereof shall be determined by the law of criminal procedure of the Russian Federation.

If a threat to the life, the health and the property of the individual persons arises, it shall be admitted, upon their application or with their consent in written form, to bug the conversations, held by their telephones, on the grounds of the decision, approved by the head of the body, engaged in the operational-search activity, with an obligatory notification within 48 hours of the corresponding court (the judge).

The test purchase or the controlled delivery of the things, substances and products, whose free realization is forbidden or whose circulation is restricted, as well as the operational experiment or the operational implanting of the official persons of the bodies, engaged in the operational-search activity, as well as of the persons, who render them assistance, shall be effected on the grounds of the decision, approved by the head of the body, engaged in the operational-search activity.

The carrying out of the operational-search experiment shall be admitted only for the purposes of exposing, preventing, suppressing and revealing a grave crime, as well as for the purposes of exposing and identifying the persons, who are preparing, committing or have perpetrated crimes.

While carrying out the operational-search measures on the grounds, stipulated in Items 1-4 and 6 of the second part of Article 7 of the present Federal Law, it shall be forbidden to perform the actions, pointed out in Items 8-11 of the first part of Article 6 of the present Federal Law.

The operational-search measures, providing for the security of the bodies, engaged in the operational-search activity, shall be carried out in conformity with the present Federal Law and exclusively within the scope of jurisdiction of the said bodies, defined by the corresponding legislative acts of the Russian Federation. On the grounds, stipulated in Item 5 of the second part of Article 7 of the present Federal Law, it shall be permitted to perform the actions, pointed out in Items 8-11 of the first part of Article 6, without a court decision, in case there is a written consent of the citizen.

#### **Article 9. The Grounds and the Procedure for Examining in the Court the Materials on Restricting the Citizens' Constitutional Rights, While Carrying out the Operational-Search Measures**

The examination of the materials on restricting the citizens' constitutional rights to the privacy of the correspondence, the telephone conversations, the mail, the telegraph and other kinds of communications, passed through the electric communications system and through the mails, and also to the inviolability of the home, while carrying out the operational-search measures, shall be as a rule effected by the court by the place of carrying out such measures or by the place of location of the body, which has requested that they be carried out. The said materials shall be examined by the judge, authorized to do this, individually and immediately. The judge shall have no right to refuse to consider such materials, if they have been presented.

The grounds for the judge's resolution of the issue about carrying out an operational-search measure, restricting the citizens' constitutional rights, pointed out in the first part of the present Article, shall be a motivated decision of one of the heads of the body, engaged in the operational-search activity. The list of the categories of such heads shall be defined by the departmental normative acts.

On the judge's demand, he may also be supplied other materials, related to the grounds for carrying out the operational-search measure, except for the information on the persons, implanted into the organized criminal groups, on the staff secret workers of the bodies, engaged in the operational-search activity, and on the persons, rendering them assistance on the confidential principle, on the organization and on the tactics of carrying out the operational-search measures.

By the results of examination of the said materials, the judge shall permit the carrying out of the corresponding operational-search measure, restricting the citizens' constitutional rights, pointed out in the first part of the present Article, or rejects its carrying out and issues a motivated ruling to this effect. The ruling, certified by the stamp, shall be issued to the initiator of carrying out the operational-search measure simultaneously with the return of the materials he has supplied.

The term of operation of the ruling, passed by the judge, shall be calculated in full days from its passing and shall not exceed six months, unless otherwise indicated in the ruling itself. The course of the term shall not be interrupted. In case the need arises to extend the term of operation of the ruling, the judge shall pass a court decision on the grounds of the newly presented materials.

If the judge rejects the carrying out of the operational-search measure, restricting the citizens' constitutional rights, pointed out in the first part of the present article, the body, engaged in the operational-search activity, shall have the right to file the same claim to the higher placed court.

The heads of the judicial bodies shall create conditions that would ensure protection of the information, which is contained in the operational-official documents, supplied to the judge.

#### **Article 10. The Provision of Information and the Documentation of the Operational-Search Activity**

To resolve the tasks, entrusted to them by the present Federal Law, the bodies, engaged in the operational-search activity, may create and make use of the information systems, and also to initiate the operational accounting cases.

The operational accounting cases shall be initiated, if there exist the grounds, stipulated in Items 1-6 of the first part of Article 7 of the present Federal Law, for the purposes of collecting and systematizing the information, of checking up and estimating the results of the operational-search activity, and also so that the bodies, engaged in the operational-search activity, may pass the corresponding decisions, relying on them.

The fact of starting up an operational accounting case shall not be the ground for restricting the constitutional rights and freedoms, and of the legitimate interests of man and the citizen.

The operational accounting case shall be ceased, if the concrete tasks of the operational-search activity, stipulated in Article 2 of the present Federal Law, are resolved, or if the circumstances are established, testifying to an objective impossibility of resolving these tasks.

The list of the operational accounting cases and the procedure for their conducting shall be defined by the normative acts of the bodies, engaged in the operational-search activity.

#### **Article 11. The Use of the Results of the Operational-Search Activity**

The results of the operational-search activity may be used to prepare and to implement the investigatory and the judicial actions, to carry out the operational-search measures, involved in the exposure, prevention, suppression and revelation of the crimes, in the exposure and identification of the persons, who are preparing and committing them or who have perpetrated them, and also to search for the persons, who have hidden from the inquest bodies, from the investigation and the trial, are avoiding the execution of the punishment or are missing.

The results of the operational-search activity may serve as a pretext and the ground for instituting a criminal case, may be presented to the inquest body, to the prosecutor or to the court, which has instituted proceedings on the criminal case, and may also be used to prove the criminal cases in conformity with the provisions of the criminal-procedural legislation of the Russian Federation, regulating the collection, the checking up and the estimation of the proofs.

The results of the operational-search activity shall be presented to the inquest body, to the prosecutor or to the court on the grounds of the decision of the head of the body, engaged in the operational-search activity, in conformity with the procedure, stipulated by the departmental normative acts.

The results of the operational-search activity with respect to the persons, mentioned in Items 1-4 and Item 6 of the second part of Article 7 of the present Federal Law, shall be taken into account, when resolving the question of their admittance to the said kinds of activity.

#### **Article 12. Protection of the Information on the Bodies, Engaged in the Operational-Search Activity**

The information on the forces, the means, the sources, the methods, the plans and the results of the operational-search activity, being used or having been used in carrying out the secret operational-search measures, on the persons, implanted into the organized criminal groups, on the secret staff employees of the bodies, engaged in the operational-search activity, and on the persons, rendering them assistance on the confidential principle, as well as on the organization and on the tactics of carrying out the operational-search measures, shall be seen as a state secret and shall be liable to declassification only on the grounds of the decision of the head of the body, engaged in the operational-search activity.

Giving publicity to the information on the persons, implanted into the organized criminal groups, on the secret staff employees of the bodies, engaged in the operational-search activity, and on the persons, rendering them assistance on the confidential principle, shall be admitted only by their consent in written form and in the cases, stipulated by the federal laws.

The court decision on the right to carry out an operational-search measure and the materials, which have served as the ground for passing such decision, shall be kept only by the bodies, engaged in the operational-search activity.

*Federal Law No. 6-FZ of January 5, 1999 introduced amendments to part four of Article 12 of the present Federal Law*

The operational and service documents reflecting the results of operational and investigation activities shall be presented to a court (judge), prosecutor supervising the legality of operational and investigation activities, investigator and inquiry body carrying on proceedings in respect to a criminal case, other bodies performing operational and investigation activities, in accordance with the procedure and in the cases established by the present Federal Law.

### **Chapter III. The Bodies, Engaged in the Operational-Search Activity**

*Federal Law No. 55-FZ of June 29, 2004 amended Article 13 of this Federal Law*

#### **Article 13. The Bodies, Engaged in the Operational-Search Activity**

The right to engage in the operational-search activity on the territory of the Russian Federation shall be granted to the operational subunits:

1. Of the internal affairs bodies of the Russian Federation.
2. Of the Federal Security Service bodies.
3. Abolished as of July 1, 2003
4. Of the federal bodies of the State Guard.
5. Abolished as of July 1, 2003
6. Of the customs service bodies of the Russian Federation.
7. Of the intelligence service bodies of the Russian Federation.
8. The Federal Service of the Execution of Sentences.
9. Of the bodies for control over the traffic of narcotics and psychotropic substances.

An operational subunit of the foreign intelligence body of the Ministry of Defence of the Russian Federation shall only take operational-search measures for the purpose of ensuring the security of said foreign intelligence body and where these measures do not infringe upon the jurisdiction of the bodies, pointed out in Items 1, 2, 4 and from 6 to 9 of Part One of this Article.

The list of the bodies, engaged in the operational-search activity, may be amended or supplemented only by a federal law. The heads of the said bodies shall define the list of the operational subunits, endowed with the legal right to engage in the operational-search activity, their powers and structure and the organization of their work.

The bodies, engaged in the operational-search activity, shall resolve the tasks, defined by the present Federal Law, exclusively within the scope of their jurisdiction, laid down by the corresponding legislative acts of the Russian Federation.

The operational units of the bodies carrying on the operational search activity may conduct, jointly with the workers of the system of criminal execution, operational search arrangements in the investigatory isolators of the system of criminal execution of the Ministry of Justice of the Russian Federation.

#### **Article 14. The Duties of the Bodies, Engaged in the Operational-Search Activity**

while fulfilling the tasks of the operational-search activity, defined by the present Federal Law, the bodies, authorized to perform it, shall be obliged:

1. To launch, within the scope of their jurisdiction, all the necessary measures to protect the constitutional rights and freedoms of man and the citizen, as well as the property, and also to provide for the security of society and of the state.
2. To execute, within the scope of their jurisdiction, the written orders of the inquest body and of the investigator, the instructions of the prosecutor and the decisions of the court on carrying out the operational-search measures by the criminal cases, which they have accepted for examination.
3. To answer, on the grounds and in conformity with the procedure, stipulated by the international treaties of the Russian Federation, the inquiries of the corresponding international law-protection organizations, of the law-protection bodies and of the specialized services of foreign states.
4. To inform the other bodies, engaged in the operational-search activity on the territory of the Russian Federation, about the facts of the unlawful activity, which have become known to them and which are referred to the jurisdiction of these bodies, and to render the necessary assistance to these bodies.
5. To observe the rules of conspiracy, while performing the operational-search activity.
6. To assist in providing, in conformity with the procedure, established by the legislation of the Russian Federation, for the security and for the maintenance of the property of its workers, of the persons, rendering assistance to the bodies, engaged in the operational-search activity, of the participants in the criminal court proceedings, as well as of the family members and close relations of the said persons from criminal attempts.

#### **Article 15. The Rights of the Bodies, Engaged in the Operational-Search Activity**

While fulfilling the tasks of the operational-search activity, defined by the present Federal Law, the bodies, authorized to engage in it, shall be obliged:

1. To carry out, openly and secretly, the operational-search measures, listed in Article 6 of the present Federal Law, and to seize, while carrying them out, the things, materials and communications and to interrupt the rendering of the communications services, if a direct threat arises to the life and health of the person, or if the state, military, economic or ecological security of the Russian Federation is jeopardized.
  2. To establish, on the gratuitous or on the remunerative basis, the cooperative relations with the persons, who have consented to render assistance on the confidential principle to the bodies, engaged in the operational-search activity.
  3. To use in the course of carrying out the operational-search measures, by a contract or by an oral agreement, the premises and the property of the enterprises, institutions, organizations and of the military units, as well as the living and the non-living quarters, the transportation means and the other property of private persons.
  4. To use for the purposes of conspiracy the documents, ciphering the personality of the official persons and the departmental affiliation of the enterprises, institutions, organizations and of the subunits, as well as of the premises and the transportation means of the bodies, engaged in the operational-search activity, as well as the personality of the citizens, rendering them assistance on the confidential principle.
  5. To set up, in conformity with the procedure, laid down by the legislation of the Russian Federation, the enterprises, institutions, organizations and the subunits, necessary to fulfil the tasks, stipulated by the present Federal Law.
- The legitimate claims of the official persons of the bodies, engaged in the operational-search activity, shall be obligatory for execution by the natural and the legal persons, to which such claims are presented.

The non-execution of the legitimate claims of the official persons of the bodies, engaged in the operational-search activity, or the interference with its legitimate performance shall entail the responsibility, stipulated by the legislation of the Russian Federation.

#### **Article 16. The Social and the Legal Protection of the Official Persons of the Bodies, Engaged in the Operational-Search Activities**

On the state protection of the official persons of the law-protection and controlling bodies, see the Federal Law No. 45-FZ of April 22, 1995

To the official persons of the bodies, engaged in the operational-search activity, shall be spread the guarantees of the social and the legal protection for the employees of those bodies, on whose staff the said persons have been put.

Nobody shall have the right to interfere with the legitimate actions of the official persons and of the bodies, engaged in the operational-search activity, with the exception of the persons, directly authorized to do this by the Federal law.

The official person, authorized to engage in the operational-search activity, shall be subordinated, in the course of carrying out the operational-search measures, only to his immediate and direct superior. If he receives the orders or the instructions, contradicting the law, the said official person shall be obliged to be guided by the law.

When protecting the life and health of the citizens, their constitutional rights and legitimate interests, and also to provide for the security of society and of the state from criminal attempts, the official person of the body, engaged in the operational-search activity, or the person, rendering him assistance, shall have the right to inflict a forced damage to the law-protected interests, caused by the said person, while legitimately discharging his official or public duty.

The time, spent by the official persons of the bodies, engaged in the operational-search activity, in fulfilling special assignments in the organized criminal groups, and also the time of their service in the posts of the secret staff employees of the said bodies, shall be taken into account when calculating the work record for granting them a privileged pension in conformity with the procedure, defined by the Government of the Russian Federation.

The state power bodies of the subjects of the Russian Federation and the local self-government bodies shall have the right to establish additional kinds of the social protection for the official persons of the bodies, engaged in the operational-search activity.

#### **Chapter IV. The Citizens' Assistance to the Bodies, Engaged in the Operational-Search Activity**

#### **Article 17. The Citizens' Assistance to the Bodies, Engaged in the Operational-Search Activity**

The individual persons may be drawn, with their consent, into the preparation or the carrying out of the operational-search measures; by their wish, their assistance to the bodies, engaged in the operational-search activity, including on the contract, shall be confidential. These persons shall be obliged to keep in secret the information, which they have obtained in the course of the preparation or of the carrying out of the operational-search measures, and shall have no right to supply a deliberately false information to the said bodies.

The bodies, engaged in the operational-search activity, may sign contracts with the adult legally capable persons, regardless of their citizenship, nationality or sex; their property, official and social status, of their education, affiliation with the public associations, their attitude towards religion and their political views.

The bodies, engaged in the operational-search activity, shall be forbidden to use the confidential assistance on the contract of the Deputies, the judges, the prosecutors, the lawyers, the priests and the plenipotentiary representatives of the officially registered religious associations.

*Federal Law No. 122-FZ of August 22, 2004 amended Article 18 of this Federal Law. The amendments shall enter into force as of January 1, 2005*

#### **Article 18. The Social and the Legal Protection of the Citizens, Rendering Assistance to the Bodies, Engaged in the Operational-Search Activity**

The persons, rendering assistance to the bodies, engaged in the operational-search activity, shall be placed under the protection of the state.

The state shall guarantee to the persons, who have given their consent to render assistance on the contract with the bodies, engaged in the operational-search activity, that it discharges its obligations, envisaged in the contract, including the guarantee of the legal protection, connected with the legitimate execution by the said persons of their public duty or of the duties, imposed on them.

If there arises a real threat of an unlawful attempt upon the life, the health or the property of the individual persons, as well as to their family members and close relations. In connection with their rendering assistance to the bodies, engaged in the operational-search activity, these bodies shall be obliged to take the measures, necessary to prevent the unlawful actions, to identify the guilty persons and to make them bear the responsibility, stipulated by the legislation of the Russian Federation.

The person from among the members of the criminal group, who has committed an unlawful action, which has not entailed grave consequences, and who has been drawn into cooperation with the body, engaged in the operational-search activity, and has actively assisted in exposing the crimes, has recompensed the damage he has done or has made good the inflicted harm in another way, shall be exempt from the criminal responsibility in conformity with the legislation of the Russian Federation.

The persons, cooperating with the bodies, engaged in the operational-search activity, or those who have rendered them assistance in exposing the crime or in identifying the persons, who have committed crimes, may receive the awards and the other payments. The sums of the awards and of the other payments, received by the said persons, shall not be taxed and shall not be mentioned in the income declarations.

The period of the citizens' cooperation on the contract with the bodies, engaged in the operational-search activity by way of the principal line of work, shall be included into the citizens' work record. The said persons shall have the right to the pension maintenance in conformity with the legislation of the Russian Federation.

To provide for the security of the persons, cooperating with the bodies, engaged in the operational-search activity, and of their family members, the carrying out of special measures, aimed at their protection, shall be admitted in conformity with the procedure, defined by the legislative and by the other legal normative acts of the Russian Federation.

If case of the perish of the person, who has cooperated on the contract with the bodies, engaged in the operational-search activity, in connection with his participation in carrying out the operational-search measures, the family and the dependents of the deceased shall be paid a lump allowance in the amount of his ten-year monetary maintenance and shall be granted a pension for the loss of the bread-winner in conformity with the order established by the laws of the Russian Federation.

If the person, cooperating on the contract with the bodies, engaged in the operational-search activity, sustains an injury, a wound or a concussion, or if he is crippled in connection with his participation in carrying out the operational-search measures, which excludes the possibility of his further cooperation with the bodies, engaged in the operational-search activity, the said person shall be paid a lump allowance in the amount of his five-year monetary maintenance, and is granted a disability pension in conformity with the order established by the laws of the Russian Federation.

In the event of the rise in compliance with the laws of the Russian Federation of several reasons for paying the said lump allowances in the instances specified by this Article, the allowances shall be paid for one of the reasons at the recipient's choice.

#### **Chapter V. Financial Provision for the Operational-Search Activity**

*Federal Law No. 122-FZ of August 22, 2004 amended Article 19 of this Federal Law. The amendments shall enter into force as of January 1, 2005*

#### **Article 19. Financial Provision for the Operational-Search Activity**

Ensuring of the operational-search activity, and also of social and legal protection of citizens assisting the agencies engaged in operational-search activity in compliance with this Federal Law, shall pertain to expense commitments of the Russian Federation and shall be effected in the procedure established by heads of state bodies whose operational subdivisions are authorised to exercise this activity.

Control over the expenditure of the financial means, allocated for the operational-search activity, shall be exerted by the heads of the state bodies, including the operational subunits, engaged in the operational-search activity, and also by the specially authorized representatives of the Ministry of Finance of the Russian Federation.

#### **Chapter VI. Control and Supervision over the Operational-Search Activity**

#### **Article 20. Control over the Operational-Search Activity**

Control over the operational-search activity shall be exerted by the President of the Russian Federation, by the Federal Assembly of the Russian Federation and by the Government of the Russian Federation within the scope of the jurisdiction, defined by the Constitution of the Russian Federation, the federal constitutional laws and the federal laws.

*Federal Law No. 6-FZ of January 5, 1999 introduced amendments to Article 21 of the present Federal Law*

#### **Article 21. Procurator's Supervision of Operational and Investigation Activities**

Procurator's supervision of the implementation of the present Federal Law shall be the responsibility of the Procurator General of the Russian Federation and the procurator's offices authorized by him.

On the demand of the said procurators the heads of the bodies performing operational and investigation activities shall present operational and service documents to them including operative record cases, materials on the conduct of operational and investigation activities including the use of operative technical means as well as records and registration documentation and the departmental regulatory legal acts governing the procedure for the conduct of operational and investigation activities.

Information on the persons infiltrated in organized criminal groups, on staff undercover personnel of the bodies performing operational and investigation activities as well as on the persons rendering assistance to these bodies, on the basis of confidentiality shall be provided to respective procurators only with the consent in writing of the above persons excluding the cases requiring them being held responsible under criminal law.

The procurators specified in Part 1 of the present article shall ensure non-disclosure of the information contained in the documents and materials so presented.

The failure to comply with the lawful requirements of the procurator ensuring from the powers thereof concerning the supervision of operational and investigation activities shall bring about accountability under law.

*On procurator's supervision of operational and investigation activities see also Federal Law No. 168-FZ of November 17, 1995 and Order of the Procurator's Office of the Russian Federation No. 48 of August 9, 1996*

#### **Article 22. The Departmental Control**

The heads of the bodies, engaged in the operational-search activity, shall bear personal responsibility for the observation of legality, while organizing and carrying out the operational-search measures.

#### **Article 23. The Present Federal Law's Coming into Force**

The present Federal Law shall come into force as from the day of its official publication.

To recognize as invalidated as from the day of putting in force the present Federal Law, the Law of the Russian Federation on the Operational-Search Activity in the Russian Federation (Gazette of the Congress of the People's Deputies of the Russian Federation and of the Supreme Soviet of the Russian Federation, No. 17, 1992, item 892; No. 33, item 1912).

To propose to the President of the Russian Federation and to order to the Government of the Russian Federation that they bring their legal normative acts into correspondence with the present Federal Law.

President of the Russian Federation

Moscow, the Kremlin

Boris Yeltsin