INTERNATIONAL EXPERTISE OF THE BELARUSIAN DRFAT LAW ON INFORMATION, INFORMATIZATION AND INFORMATION PROTECTION

On March 7, 2007 Council of Ministers of the Republic of Belarus publicized the Draft law on information, informatization and information protection developed by Ministry of communications and informatization and by the State Information Security Centre .

The draft law stipulates major principles of the state policy in the sphere of informatization and information protection: public access to information, issues of information exchange, information protection, obligations and rights of the hardware and software owners.

On July 31, 2007 the first discussion of the draft law by the parliamentary working group headed by T. Safronenko, vice –chairman of the Parliament Committee on industry, transport, communications and entrepreneurship (the first hearing). Together with parliamentarians, the working group includes lawyer M. Pastuhov, member of Belarusian Association of Journalists, S. Divin, head of the Inforpark association lawmaking committee, G. Naumenko, head of the department at the Academy of Science Informatics Institute , O. Seklitski, deputy head of the Ministry of communications Informatization department, and a number of experts of the Nationbal Lawmaking Center under the President of the Republic of Belarus., of the Ministry of Communications..

The second parliamentary hearings on the draft law are scheduled for the autumn session of the Chamber of Representatives of the Belarusian Parliament. However T. Safronenko predicts that the current drfat can be declined by the Parliament members as the draft law has been heavily criticized by members of the working group, senior officials at the Presidential administration , by the civil society, Belarusian Association of Journalists in particular, and by international organizations, such as OSCE.

As authors of the law, as well as members of the working group have been constantly stressing the importance of the international experience in the field, Foundation for Legal Technologies Development conducted an international expert evaluation of the draft law in April – July 2007 [see the list of experts in Appendix 1]

According to experts opinions:

- **the authors should specify the purpose of the regulation,** determine specific goals for each of the spheres covered, or, alternatively, develop separate legal instruments (Linda Austere).

- **the law tries to cover so different aspects for which other countries have developed other laws , so the draft has no focus at all** (Ivar Tallo).
- my assessment is that this law in its current form does not improve the situation in any way neither from the point of view of citizen nor a bureaucrat because of instead of creating clear rules of play it is totally ambiguous and allows for arbitrariness of decisions at any step which is exactly what this type of law is generally meant to prevent or rectify. So leaving aside general democratic principles, **it will not even help to streamline the government work** and the only people who might benefit in the short term from it are heads of institutions who would have a chance to decide how they see fitMy assessment is that this law (Ivar Tallo).

- most important questions are: the consequences of the law if it is adopted;this will depend on implementation – the biggest problem is that **the provisions are so wide and the provisions for implementation so vague that the legislation offers significant possibilities for abuse** (Joe McNamee)**.**

- the terms used are confusing and very detailed defined, without any concrete purpose.I will suggest to rather have in a separate document what is the purpose of the law (in 3 paragrahs) and what it tries to regulate (with bullet points). Also, it could be good if Belarus can "talk" the same language as the EU in this field, so about information society services (online services), electronic communication

providers (telecoms and ISP) and doesn't try to create something new that will be applied and (perhaps ?) understood only in Belarus (Bogdan Manolea) .

- creation of a state system of control frontally contradicts freedom of information as the right to hold opinions and to receive impart information and ideas without interference by public authorities, as defined by the European Court of Human Rights. (Jean-Eric de Cockborn**e)**

See detailed information:

Appendix 1. List of experts
Appendix 2 Linda Austere. Draft Law on Information, Informatization and Information Protection. Comments and Recommendations
Appendix 3 Klemen Ticar. Draft Law on Information, Informatization and Information Protection. Comments and Recommendations
Appendix 4. Shorter comments by international experts
Appendix 5. Draft Law on information, informatization and information protection (unofficial translation)

Online version : http://www.e-belarus.org/docs/expertise_eng.pdf

Appendix 1
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Appendix 2

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General remarks

The draft law of the Republic of Belarus on "Information, informatization and protection of information" covers a wide variety of information policy issues. In this assessment I will focus primarily on the aspects of access and use of public sector information (unless specified otherwise), looking in particular at the effectiveness of the provisions of the draft law and the procedural aspects of their implementation. The present analysis therefore will not address distribution of information through the electronic communications networks, or protection of information, unless such constitutes a procedural aspect of access to public sector information.

It is important to note at the onset that in order to fully understand the present draft law and assess the possible implications of the norms with greater accuracy, one may need to be acquainted with the great variety of other regulations – administrative as well as legislative acts – to which the present draft law refers.

The present document represents the analysis of the draft version as it is on June 15- 17, 2007, accessed from: http://www.e-belarus.org/docs/informationlawdraft.html

Summary of recommendations

1) Specify the purpose of the regulation, determine specific goals for each of the spheres covered or, alternatively, develop separate legal instruments.
2) Avoid applying restrictive conditions to general principles of the law.
3) Ensure internal consistency of the regulation.
4) Pay equal attention to the quality of norms providing for the duties as well as the rights of the subjects of the regulation. Especially the rights of citizens and private entities vis-à-vis the state bodies.
5) Be consistent with the chosen style of the regulation.
6) Provide for a narrow and specific definitions of the classes and groups of restricted information or extend the ambit of the publicly available information and the right to receive such information.
7) Avoid *blanco* provisions referring to other legislation, especially with regard to defining additional classes of restricted information.
8) Clarify the grounds for refusal to access to information on administrative grounds.
9) Define the institution and competencies of the institution responsible for the quality of the implementation of the law.
10) Specify the content/conditions of liability under the present regulation and avoid *blanco* provisions in specifying the content of the liability.

Assessment of the present regulation

1. The aim and the scope of the law

The law attempts to cover a wide variety of issues of information and media policy. The latter is partly represented by the enumeration of the objects of the regulation included in the Art. 5 of the law. While interlinked, those represent different regulatory goals, requiring different approach to regulation:

(a) implementation of a basic human right to receive information from private as well as public persons and entities. The same applies to the provisions containing the basic elements of the protection of privacy,
(b) certain aspects of electronic communications and electronic commerce,

(c) management of information, especially with regard to the protection of information.

Analysis of international practice (e.g. EU countries) suggests that the variety of policy issues covered by the present law is regulated by separate legal instruments that allow for a more elaborate, clear and comprehensive regulation:

- of state information systems,
- of the formal and substantial aspects of processing and management of the public sector information,
- of information society services and/or separately
- of electronic communications and electronic privacy
- on access to public sector information,
- of the protection of personal data and
- the issues of liability depending on the regulatory tradition of a country.

The authors of the law have not included the clause establishing the purpose of the law and/or specific aims of the regulation. Granted the variety of information policy aspects covered by the law the overarching goal of the regulation is uncertain. Presently, assessing the structure as well as well as the content of the regulation, one may infer that the primary goal of the law is to streamline and manage the flow of information within the country, rather than achieve substantial policy changes in the areas of information/media policy that are comprised by the law.

Questions and recommendations

To specify the purpose of the regulation, determine specific goals for each of the spheres covered or, alternatively, develop separate legal instruments.

2. Principles of the law – enabling or restricting the access to in formation

Art. 4 of the draft law provides for the principles reputedly guiding the implementation of the law. Traditionally the role of such provisions is to streamline the application of the law, ensure the uniformity of administrative practices.

The present version of the law provides for four broad principles: freedom, good administration, protection of private life and legitimate national interests. As such the principles are in line with the international practices of access to information regulation. However, the clauses also and rather atypically include restrictive conditions that effectively subdue the principle to the law rather than vice versa.

For example, freedom of creation, search, transmission, receipt, storage, processing, use, distribution and (or) provision applies only to publicly available information, which on the other hand is defined by the Art. 26 of the present draft law and refer primarily to the information "promulgated through mass-media, put into informational networks, directories and transmitted through other publications"

With regard to the provision underlining the "timeliness of provision, objectivity, completeness and authenticity of information that is, by provisions of legislation of the Republic of Belarus, obligatory for public distribution and (or) provision by state bodies (organizations)", it is not entirely clear how far does the principle cover provision of information upon the request of a private body. Especially when the person is entitled to be "acquainted" with the information and not to "receive" it (see for example the provisions or the Art. 15 providing the framework of the right to information, analysis in a greater detail below).

The last two principles provide for the protection of personal, societal and state security as well as privacy and personal data while using information and informational technologies. This may entail that that in case of conflicting interests, especially given the wide scope of exceptions, the decision in any case will sway towards protection rather than release of information. The above may apply not only to the decisions on individual requests, but also decisions over new groups of publicly available information, information subjected to pro-active publication by the public/private bodies.

Questions and recommendations

Clauses referring to principles should be enabling rather than restrictive. What is the purpose of this article?

The two principles referring to the protection of personal, societal and state security as well as privacy and personal data should either be removed altogether or re-phrased to provide that the exercise of the rights conferred by the law may not be used to infringe the rights of others or legitimate national interests specified by the legislation.

3. Definitions

Art. 2 provides an extensive list of definitions of the basic notions used in the law. Hence, the interpretation of the norms is confined to literal application of the definition. If such approach (limiting the administrative discretion) is retained, the law must pay equal attention to definitions pertaining to the duties and the responsibilities of both citizens and the state bodies. There are several important definitions which are presently not included in Art. 2, but may yield understanding of the law (on behalf of the citizens) and application (on behalf of the state officials) significantly easier, if they were.

The law does not define the "state body (organization)" used throughout the law. Other subjects of regulation included in the Art.6 are accurately defined by the draft law, are most likely defined by the special regulations (private entrepreneurs) or internationally accepted (e.g. foreign states). In the absence of such definition, tailored especially for the purposes of this law, the scope of the regulation remains unclear.

The law does not provide for a clear distinction between the public sector information and information that belongs to private entities or individuals. The content of information "about work and activities of state bodies" is not specified. The distinction is essential to ensure an effective implementation of the law. Without such provisions, certain provisions of the draft law, most notably Art. 15, providing for the content of the right to information, cannot be applied consistently and provide wide opportunities for arbitrary interpretations. Rights of the persons requesting information may not be sufficiently protected.

Not all notions used to describe the restrictions to access of information are covered in the section of definition. The law, for example, does not define the rather elusive category of "professional secret". As opposed to other norms, also does not refer to other legislative acts that may define the particular notion.

Another important definition used throughout the law (including the norms conferring the power of classification of information) yet lacking precise definition is the "owner of information". It is not clear whether such notion refers only to private individuals and entities or equally covers the state bodies covered by the present law.

Questions and recommendations

To be consistent with the chosen mode of regulation: administrative discretion or strict legal guidance.

Define all important notions of the law or provide for a regulation that would limit the possibilities of arbitrary interpretation of the provisions of the present regulation.

4. Classification of information. Restrictions

While the draft law uses a traditional approach to classification (the types of information) referring to publicly available information and information of limited access or provision and (or) distribution in the

terminology of the present law (Art. 18, para 2). Information is classified as one of limited provision of distribution it its content refers to:

- private life of a citizen and his personal data,
- state, trade or professional secret,
- *official (service) information of limited distribution,*
- materials of criminal prosecution or court bodies until the case is dismissed,
- *internal deliberation or technical organization of the work of a state body (organization), legal entity,*
- internal official (service) correspondence and
- *other information according to the acts of Belarusian legislation.*

While several provisions of the particular norm are well in line with the international practice/accepted standards, and regulatory practices of individual countries, granted that the content of the particular restriction is defined (e.g. the notion of personal data, materials of prosecution) in other relevant legislation. There are several provisions that raise particular concern as regards their future implementation (italic above) and need to be either defined clearly by the law or removed.

Regardless the comment above, as a general principle, the content of all the groups of restrictions must be narrowly defined. The content of all the restrictions must be defined either (preferably) in the present law itself or (for example if generally accepted standards of legislative drafting do not permit duplication of provisions) in other relevant law. Interpretation of the content of the particular limitation may not exceed the ambits of restrictions on freedom of expression, as defined by the national constitution or other relevant law/binding international standards. The latter might be a valuable complement to the general principles of the law.

Art. 22 of the draft law raise particular concern. Definition of the groups of information of "denied provision or distribution" is too broad, it is impossible to assess a concrete content of the restriction. The provisions providing for "humiliation of national honor and dignity" and "infringement upon morals, dignity, and honor and business reputation of citizens" in particular, as those are not based on objective consequences of the action but rather the intention of the person disseminating information. On the other hand, it is rather unusual that dignity and reputation of private persons and entities is protected by administrative regulation, as it is most commonly a matter of the civil law (compare, in Art. 23, the content of the notion of "private life" can be defined by the citizen himself). Interpretations of this article may be incommensurable with general standards of freedom of expression and media, as defined by internationally accepted standards and law of human rights.

Constructing the articles that define the limitations it is recommended to bear in mind that those aught to serve a double fold purpose: provide a clear guidance for those classifying information as part of their administrative duties, yet at the same time explaining the citizens as clearly as possible the ambit of their rights/obligations.

Questions and recommendations

The content of the restrictions referring to official (service) information of limited distribution, internal deliberation or technical organization of the work of a state body (organization), legal entity, other information according to the acts of Belarusian legislation must be either clarified or removed from the law.

Restrictions on access to information (groups of restricted access information) should be defined by law, preferably all included in the present regulation. Competence of the state bodies and/or the owners of information to determine further limitation should be confined by the law.

All groups of restrictions should be narrowly defined to avoid arbitrariness and excessive limitations of the rights defined by the present regulation.

The purpose and content of Art. 22 should be clarified and re-considered in the light of international standards of freedom of expression and media. The article in its present form should be removed from the law.

5. The actual ambit of accessible information

One of the guiding principles traditionally describing the legal instruments that regulate practices of access to public sector information provides that information (as defined by the relevant law) is accessible unless specified otherwise by law. Hence, all information which is not defined as restricted is deemed to generally accessible. Analysis of the present version of the draft law, however, does not confirm the above, as further limitations on access are defined by the norms addressing "publicly available information" itself (Art. 20)

The article provides that publicly available shall be information that:

- has on the legal basis (hence, observing the limits set in the Art. 22 of the present law amongst others) been promulgated through mass-media,
- put into informational networks (e.g. Internet and other telecommunications network),
- directories (not defined) and
- Transmitted through other publications.

The first part of the article therefore mainly provides for the right to access and use public sources of information, such as traditional and on line media, where the content of the information contained therein conforms to the regulations of the national law.

While in the continuation the norm extends the right to "other information", the content of such information is unclear, especially as the provision empowers the "owner of the information" (notion not defined by the law) to decide on its classification – provision and distribution. Information does not fall in the realm of publicly accessible data if: "provision and (or) distribution of which is not limited by its owner or by legislative acts of the Republic of Belarus." It is not clear whether the decision of the owner (with an exception of information regarding the privacy of a natural person) must be justified by a legal provision or whether such restrictions can amount to a parallel system of classification of information.

Further limitations arise from interpretation of the Art. 15 providing for the general content of the right to access if read in connection with Art. 20 para 2.

For example, while the Art. 15 provides that State bodies, citizens and legal entities shall have a right to create, search, request, transmit, receive, store, proceed, use and distribute information, in accordance with the present Law and other legislative acts of the Republic of Belarus. Art. 22 of the law limits this right to: "State bodies (organizations), citizens and legal entities shall have a right to: search, receive, use and distribute publicly available information."

Granted the overall style of the draft regulation, relying on the precision of definitions, it is recommended to re-consider the definition of information that may not be classified (Art. 22 para 4). Granted the limited amount (and uncertainty) of information which is available under the rules of access to publicly available information, it is recommended to develop a more detailed regulation regarding this group of information. The scope of this information may also be extended to include additional categories of information of public interest (e.g. management of public property, public funds, legislation and certain policy documents (akin to the regulation enshrined in the Art. 7 of the present law)).

Questions and recommendations

To include the general principle that information is freely available unless specified otherwise by law and provide a more detailed regulation of the restrictions or

Develop a more detailed regulation regarding the publicly available information. The scope of this information should include categories of information of generally recognized public interest (e.g. management of public property, public funds, legislation and certain policy documents (akin to the regulation enshrined in the Art. 7 of the present law).

Specify the notion as well as the ambit of rights of the owner of information, especially with regard to the classification of information (also above).

6. Content of the basic rights to information

Depending on the content of information and its relation to the person requesting the data, the draft law distinguishes between two modes of access to information. A person may "receive" information that directly touches upon its rights or interests, or "get acquainted" to information that concerns functioning of state bodies and public administration "within the bounds and norms specified by the present Law and other legislative acts of the Republic of Belarus". The latter amounts, beyond doubt, for the access to publicly available information (see section 4 above).

A possible source of concern in the process of implementation of the present regulation may be the distinction between the right to receive (e.g. receive copies of documents) and the right to "get acquainted" with information (e.g. to examine the sources of data). Such restriction should be normally justified by special features of the particular carrier of information, such as specific requirements of storage, use.

A person may be asked to agree to get acquainted with the information instead of receiving it, in case if due to objective administrative reasons (cost of preparation of information, human resources available) the dissemination or provision of the information amounts to a serious impediment to a quality fulfillment of other duties of the organization. The latter may not be presumed and the institution is normally required to provide a detailed argumentation, justifying such decision.

Questions and comments

Specify the content of the rights of the citizens ("receive", "get acquainted") and legal entities requesting information, especially with regard to the form of the provision of such information.

Ensure a coherence of the norms providing for the rights of private persons/entities and obligations of the state bodies with regard to the content of the right of information.

Unless there are objective technical, administrative or other reasons related to preservation of the information requested, a person should be entitled to "receive" information functioning of state bodies and public administration, which includes provision of documents.

7. Procedural guarantees

The draft law contains a fair amount of sufficient provisions providing for the procedural rights of the citizens requesting access to information. Indeed, the Chapter 4 of the present law, may be one of its presently strongest points. Granted that the provisions regarding the content of the accessible information are clarified to ensure a clearer understanding about the content of the rights, the present procedural provisions may help the implementation of the law. The quality of implementation, however, arguably depends on the amount of resources that are directed towards the goal.

The procedural guarantees presently include (Art. 26):

- Possibility of a written, oral or electronic request;
- Modes of dissemination include full or partial (publicly available part of the document/information) access to information;
- A person is entitled to receive the document requested, consult it (get acquainted with the information), written request or verbal statement.

With regard to the provision above, it would be recommended to clarify the guidelines of the choice of the method of dissemination/provision of information and the amount of the rights of a citizen. Namely, the right of a person requesting information to suggest the preferred form of reply from the entity and the circumstances under which the latter may be overruled by the preference of the authority (e.g. technical possibilities).

Due to the ambiguous definition of the publicly accessible information, the ambit of the right to access (especially to request access) to documents is unclear. Referring to the comment above, the possibility to receive such information, arguably one of the most authentic sources of data in line with one of the principles of dissemination/provision of information according to the present draft law (Art. 25 para 2), is presently a matter of a rather arbitrary decision of the authority (the owner of the information(?)).

- The information may be required through a representative.

The procedural burden arising from the required legal form of representation may be important here.

- The law does not require to specify the interest in obtaining the particular information (in line with on of the main principles recognized international standards of regulation of access to official information);
- The law provides for the duty to assist and the duty to ensure the conditions for implementation of the present regulation;
- The answer to the request must be ensured in 15 days upon the receipt of the request, a relatively short term comparing to the average in similar regulations (a month). The quality of the implementation of this norm, however, depends on the system (if any) of the registration of the requests;
- The right to appeal the decision of the authority comprises both substantial as well as procedural aspects of the request;
- Information is available free of charge.

There are, however, several inconsistencies, which may turn out to be important in the practical interpretation of norms:

Art. 26 provides for the right to receive parts of information, however, Art.28, defining the procedure, is rather ambiguous: the decision can be either or access or denial of access to information. The law therefore does not confer to the authorities the power to grant partial access to information. It can be a procedural problem as, even though a person is entitled to receive (public part of a restricted document) parts of information, the entity is not entitled to provide it.

The same applies to the written requests submitted to the wrong institution. The Art. 28 provides for the duty to assist and transfer the request in case if it has been submitted to the wrong institution, as well as the duty to notify the requestor. Yet, the same rationale also appears to be one of the grounds for denial of access to information (also Art. 28), as the provision such information can be interpreted as falling out of the competencies of the particular institution.

Questions and recommendations

Clarify the guidelines of the choice of the method of dissemination/provision of information on behalf of the state body.

Ensure the right of the citizens/legal entities to suggest the preferred form of reply from the entity and the circumstances under which the latter may be overruled by the preference of the authority.

Provide for the registration of the requests for information.

Specify the rules of representation.

Prevent internal inconsistencies of the regulation, especially with regard to Articles 28-28 of the present version of the draft law.

Require motivated response upon the refusal to grant access to particular information.

The law may need to clarify/provide for the right to appeal tacit refusals.

8. Grounds for refusal of access to information

It is important for a uniform implementation of the law and clarity of the regulation, both with regard to the public entities and the citizens and the legal entities, who request the information, the grounds specifying the possibility to refuse the access to information comprised by the law, are formulated as unambiguously as possible. There are several provisions of the present regulation that may serve to limit the access to information without due justification. Article 28 para 4 provides that grounds for denial shall include:

- Cases when distribution of requested information may harm national security, state or public interests.

With regard to this provision it is not entirely clear how it differs from information that is "limited and (or) denied provision and (or) distribution". To avoid arbitrary interpretations, the norm therefore requires further clarification, especially with regard to the legal instruments specifying the interests protected by the present regulation.

- Impossibility of presenting information due to its absence, full or partial loss of information.

Granted that interpretation of the norm is purely arbitrary, it may serve as a "catch-all" provision that allows rejecting nearly every request. Citizens of legal entities requesting access to information have no legal means to. The notion of "absence" of information is particularly vague, granted the stringent measures directed towards the protection and liability for the management of such data. It is recommended to remove the provision.

Questions and suggestions

Clarify the content of the provisions determining the grounds for the refusal to access information. Ensure internal consistency of the provisions within the law.

The provision providing for refusal to access based on the "impossibility of presenting information due to its absence, full or partial loss of information" should be removed from the law.

9. The content of liability

Article 41 of the present version of the draft law provides for an extensive list of types/sources of liability under the present law. However, the specific conditions under which the liability may occur remain uncertain and vague throughout the regulation. The law relies extensively on the provisions of "other legislation", therefore rendering the actual ambit of liability unpredictable, especially when read together and granted the inconsistencies with the general principles of the law (Art. 4) and the provisions of liability (e.g. Art. 41)

Questions and recommendations

To specify the conditions of liability and ensure internal consistency or the present regulation regarding the liability for the wrongful exercise of the rights provided for in the present regulation.

To determine the specific content of the acts (e.g. "not to abuse right to information") of private persons and entities for which the liability may occur under the present regulation.

10. Implementation, monitoring and institutions

According to the Art. 8 of the present version of the draft law, there is no institution that would be responsible for the implementation of the regulation. It is highly recommended to re-consider the present approach and to designate one institution with the overall responsibility about the quality of the implementation of the present regulation.

Based on variety of international practices, enshrined in international standards, as well as the experience of the author of the present analysis in Latvia (where until recently the law on access to public sector information provided for a similar institutional arrangement), the peace-meal approach to the monitoring and enforcement of the law, entrusting the ultimate responsibility in each individual institution, is highly in-effective to guarantee the sufficient realization of the rights guaranteed by the law.

Questions and recommendation

To specify the institution responsible for the implementation of the law.

Define the administrative (not merely policy) competencies of the institution vis-à-vis other institutions and individuals who violate/ignore the provisions of the present law

Specify the competencies of the "higher bodies" upon the receipt of the appeal from an individual or organization in line with the provisions of the Art. 17 para 3 of the law.

Positive aspects of the present version of the draft law

Throughout the present analysis I have tried to maintain the balance between stressing the positive and alluding to the problematic aspects of the regulation. There are some, however, that may not have been specifically mentioned in the analysis above.

The draft law provides for the right to receive information about oneself from all systems (including paper-based) where such is stored, is a pivotal principle of the international standards of protection of personal data, and appears to be well protected in the present version of the draft law.

The law contains basic regulation regarding the rights/obligation of those processing personal data (Art. 53) The law, however, does not refer to the electronic privacy, being a separate and important realm of regulation, especially granted the aspirations of the present law.

The legislation is progressive, comparing to others, in providing for technological neutrality.

As stressed above, the law provides for fair procedural guarantees that with some relatively minor elaboration and improvements may provide for the basic protection of the rights of those exercising their rights vis-à-vis the public authorities.

The law provides for a duty of pro-active distribution of information (Art. 29 and 30), also for the mandatory structure and content of the on line presence of the public bodies. Yet, as a general comment, the positive effects of the regulation certainly depends on the type and scope of the information that must/may be imparted in such manner.

The law strikes a fair balance between the conventional and electronic means of access and dissemination of information. Retaining the balance is highly recommended as, if access to the networks is not sufficiently

developed, the efficiency of the pro-active publication and the possibility of electronic access and distribution of information is questionable.

Linda Austere
Budapest, June 17, 2007

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Appendix 3
Draft Law on Information, Informatization and Information Protection. Comments and Recommendations
Klemen Tičar, Slovenia

Introductory note

The following legal assesment of the proposed Draft Bill on Information, Informatization and Protection of information of the Republic of Belarus represents an independent expert oppinion on the noted legal instrument as available on http://www.e-belarus.org/docs/informationlawdraft.html, visited on May 24, 2007.

General remarks to the Bill are provided as an comparisment to known international and national legal instruments, primarely of European provenience.

The core legal assessment concentrates on seven focal viewpoints as provided by the consignee. Reference is made to known practices on different issues concerned. It should be however noted that the provided assessment, especially its comparative analysis, is without prejudice to legal preferences, which are not known to the author and may not be the same as the preferences of the consignee, and different possibilities available under national law. The very same holds true also for any suggestions and proposals provided, where certain viewpoints depend on the developement of the electronic communication services market. The author futhermore has no knowledge on other legal instruments under Belarus law, that could influence the material provision and consequensces of bill provided for legal assessment and could consequently also provide a different perspective to a specific issue analysed.

For the very same reasons the provided assessment can also not interfere with the national division of powers by the different public bodies of the Republic of Belarus.

1. General remarks

The draft Bill on Information, Informatization and Protection of information of the Republic of Belarus obviously aims at very divergent issues of information society, al least however the following (Article 1):

- on-line content and services regulation,
- electronic communications,
- legal use of technologies and
- privacy protection.

Though a common denominator of all the described issues can be identified as all being imporatant themes of the information society, a comparative legal analysis would show that they are traditionally regulated separately in legal instruments governing the very question concerned. Such an approach was widely adopted on the level of the European Union and is also prevailing in different member states, especially in the process of adopting implementing measures to the EU legal instrument concerned (tipically Direcitves). The strong points of such an approach are not only that certain legal issues remain regulated on a systematic and comprehensive way, but that those very issues are adapted to the new legal situation arising from information society case specific. Up to now we have no knowledge a vice-versa approach, arising from the phenomena of information society itself as being the core of regulation was being implemented. Widely adopted regulation shows a more evolutionary approach on a specific subject matter. Is case of the bill presented that it is therefore highly reccomended that at least secondary legislation as refered to in article 1, paragraph 4, 5, in the fiedls of electronic communnications, privacy protection and intelectual property is already in place as to allow the sound functioning of the proposed legal framework as a whole.

Futhermore it should be noted that instruments, which regulate on-line content from a general perspective are very uncommon as they are in itself ineffective due to the global nature of the internet. In other words: they

can be provided and accessed from anywhere to anywhere. A logical consequence of the fact is that regulating access and provision from a national level is rendered impracitcable and therefore ommited. Even widely agreed international regulation often faces very same fate. Pro-active content regulation is therefore mostly limited to public bodies with a doctrinal agreement as being a notion of the individual's right to access information. A step futher in this respect is the commercial use of such information.

2. Assessment

2.1. The consequences of the law if adopted

As already noted in the general remarks above the main conseuences are a proactive and general approach to on-line content regulation aiming at private and especially public content regulation, defition of legal status of different subjects in the communication process as well as setting-up a comprehensive framework guaranteing information security.

Firstly it should be noted that whilst such an approach on content regulation is widely accepted and adopted mostly in case of public content provision it is very much limited when private content is concerned. However both, provisions aiming at content provision and those prohibiting certain content as illicit or illegal are not a novelty to private on-line content regualtion. An example of proactive approach to content provision can be observed in the whole legal framework of the Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information[1], Article 5 Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')[2], but also certain other european and other international legal instruments, regulating e.g. envirinmental legal issues. On the other an example of prohibiting measures can be observed in the Council of Europe's Convention on cybercrime[3] where certain forms of content, like child pornography and intelectual property infringing content are criminalized. Mostly however private content regulation is left over to the private bodies (natural or legal persons) themselves and is in most cases also regulated by the general principles of civil law.

The draft law contains a very detailed terminology. Such an approach doubtlessly has certain advantages as it allows a very case specific approach to almost avery situation. However this can be identified also as his main weakness, as the fact of a certain deffinition applying in a specific situation can be alway disputed. E.g.: in practice it could be always disputed whether an information system, information system with limited access, information network, information service, or informational resources were the focus of our observation. As different legal provisions would apply to any of those, they would logicaly lead to different legal consequences. It can be generally observed that regulation is in principle very reluctant to accept any new definitions, granting special legal status to technical phaenomena. A more widely accepted approah in Europe aims at defining terminology utmost technology neutral as to allow interpretation to the widest scope of known activities, but also to prevent it from not being applicable to certain new technologies, yet to come. The main consideradionts in this respect are based on the distinction between the provision of content anf provision of service. On the other hand however, it can not be overseen that the draft bill, despite to its very detailed terminology, does not define the term public body, which is interesting. Consequently the scope of institutions, which are obliged to provide public information to individuals is somewhat unclear.

Secondly as far as participants of internet communication are concerned it should be observed that comparative law in principle distinguishes only between the »information society service provider«[4] and the

[1] http://eur-lex.europa.eu/Result.do?T1=V1&T2=2003&T3=98&RechType=RECH_naturel&Submit=Search
[2] http://eur-lex.europa.eu/Result.do?T1=V1&T2=2000&T3=31&RechType=RECH_naturel&Submit=Search
[3] http://conventions.coe.int/Treaty/EN/Treaties/Html/185.htm
[4] Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'), together with Directive 98/48/EC of the European Parliament and of the Council of 20 July 1998 amending

»electronic communication service and/or network provider«[5]. All legislation of the EU member states is in practice based on this distinction, and also requirements are set-up accordingly. As this is in international terms the most systematic approach in regulating different subjective information society issues it is highly recommended, that a similar approach is considered also by other (non-member) states, without the formal obligation of transposition into national law.

Thirdly it should be noted that the draft proposal contains some detailed regulation on personal data protection and intelectual property. Though this is understandable as both are highlighted issues of information society it should be reassessed whether their regulation in the main legal framework regulating both, intelectual property and privacy protection wouldn't be more comprehensive and therefore favourable from a systemtatic viewpoint.

2.2. Positive effects of the draft bill

The main and in fact very positive effect of the draft bill if adopted is the implementation of a comprehensive approach to public on-line content provision. Especially ***the priciples*** of:

- freedom of creation, search, transmission, receipt, storage, processing, use, distribution and (or) provision of any type of publicly availabe information;
- timeliness of provision, objectivity, completeness and authenticity of public and
- personal integrity,

being respected, is of utmost importance for all on-line content provided. Futhermore the policy directives, provided for in Article 7 and stipulating the creation of an effective system of information support as well as to provide conditions for development of information technologies, information systems and networks, user access are very encouraging. However in this respect it should be noted that the telecommunication sector is widely liberalised in Europe and that states are consequently limited in granting public founds to service providers by state aid rules.

Also ***distinctive rules on different document types*** can be regarded as positive. Though in principle such an approach is not very common in comparative law, it is somewhat practicable. Especially the distinction between publicly available and non available information should have very positive practical effect, as such information could be regarded as already provided and therefore no additional administration from the public bodies is necessary. However the distintion on the atribute of order of provision is somewhat doubtful. A more commonly adopted solution observed in comparative law in this respect is the implementation of a general clause that renders in principle all data held by public bodies as (publicly) available, but on the other side provides for exemptions; typical exemptions include all ongoing criminal, civil, administrative and other procedures, personal data, state secrets, bussiness secrecy as well as similar exemptions, defined by national law. A similar notion can be observed in the definition of information of limited provision as stated in the draft bill. It is therefore not quite obviuos why this last distinction on the order of provision of information is necessary, especially as in the unofficial translation provision of information refers more to the procedure of accessing information. Nevertheless such legislative approach provides for certain additional clarity in the process of accesing information, as it states clearly that different forms of distribution of information can and will apply, thus not all information can be made publicly available, however still accessable.

Very positive effect can be expected from the framework on the ***provision of publicly available information*** upon a request which is very comprehensive one and could remain in principle unchanged. Defining different conducts in providing information is a practicable solution. Also interesting is the additional

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Directive 98/34/EC laying down a procedure for the provision of information in the field of technical standards and regulations.

[5] Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive).

formalisation of requests adressed via e-mail as this issues are not yet harmonised at international level. In this respect it should be however noted, that an electronic request, signed with secure digital signature adhering a qualified certificate, has at least in the EU, the same legal value as a personal signature, thus also having the very same legal consequences; following Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures. To this end it should be observed that grounds of denial of access to information may have the very same effect as declaring certain types of information as information of limited or denied provision, thus perhaps rendering the latter stated definition obsolete. The result of both is very much the same: no such information can be provided as it is denied access. Another very positive notion of the draft bill is a highly proactive regulation on mandatory provision and distribution of publicly available information on activities of state bodies including promulgation of documents, fuctioning of public networks but also mandatory content requirements, together with its prohibitions, as provided in Article 30.

The very same as observed above, holds true also is case of ***registration of information resources***, which shall allow for a highly centralised approach in informatising different fields and levels of public administration, thus allowing it being more unified, cost efficient and as a consequence more technologically and economically effective (Articles 31 – 35). It is however somewhat dubious that the registration of information resources containing information of limited provision and registration of informational resources of the state security shall fall within the same regime as general principles of public information provision (Article 32, paragraphs 4 and 5). Both are namely approaching the information society from a different perspective and therefore governed by different principles; allowing insight in their information only in very restricted cases. Perhaps a general derogation from applicability to such data and information resources could be considered, leaving those issues to sector specific legislation. The latter proposal is based on the consideration, that in case of »delicate« information sources, governing e.g. state, defence or similar vital secrecy for sovereignity, is, even framework or non-information allow interpretation of certain intelligence.

Also positive in principle is the ***distinction between different information systems*** as it allows for a separate »internal« regulation of public information systems, though such a right is in fact self explanatory. It can not be however overseen that its definition lacks clarity, especially in respect of access to publicly available electronic communication networks. The latter are liberalised and in a modern society open to almost any reason of creation, defined by the market and its needs; not only »to satisfy informational needs and render informational services«. To this end it is also hard to estimate the relations between the voluntary registration of private information systems in comparison to the provision of electronic services upon notification, widely implemented by comparative law, following Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorisation of electronic communications networks and services (Authorisation Directive)[6]. We refer to this issues as being problematic, from the perspective of sectoral specific legislation on telecommunications (refered to in Article 39), which was however not provided for assessment.

Rules on protection of information are also a favourable solution, providing for some general legal, organisational and technical diligence measures in information security. Such a comprehensive and detailed framework, can be observed in comparative law only in the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, which is however only focused on personal data. As already stated in the general remarks it should be reconsidered whether unified regulation on protection of personal data wouldn't be more comprehensive (Article 53). This is however without prejudice to the measures proposed, aiming at a general framework ensuring information security.

2.3. Negative effects of the draft bill

The relationship to other acts, especially the media act and the telecommunication act is somewhat unclear. The provided solution namely suggests that only rules on mass media would apply to on-line content,

[6] http://eur-lex.europa.eu/Result.do?T3=20&T1=V1&Submit=Iskanje&RechType=RECH_naturel&T2=2002

provided by a natural or legal person, designated as mass media. For the general part this is of course a logical and widely adopted solution, as far as media content is concerned. however it should be somehow stipulated also, that in case of other (non-media) content general information rules apply. Similar observation can be made in relation to the telecommunications act, where the distinction between information systems and electronic communication (telecommunication) networks lack clarity.

Somewhat unclear is the notion of the draft bill with the explicit stipulation of the ***individual's right to access personal information (data)*** from public bodies. The right originates from the framework on personal data protection and is also in comparative law regulated as its integral part. The main reason behind such a framework originates in the consideration that all personal data, held in electronic or physical form by public or private bodies should be equally protected by law. It is therefore doubtful that the proposed regulation as being part of a bill, basically regulating content provision is comprehensive. Nevertheless the proposed solution is legally possible and could not be regarded as doubtful. However it should be reminded that some general privacy protection rules (especially provision governing due care of data processors and/or data controllers) shall apply as well to personal data regulated by the draft bill.

The ***limitation that information*** received upon a written request ***may not be used***, distributed and (or) spread ***for commercial purposes*** somewhat hampers the economic impact of the whole public information provision framework. Article 3 of the Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information provides that »Member States shall ensure that, where the re-use of documents held by public sector bodies is allowed, these documents shall be re-usable for commercial or non-commercial purposes…« Though the directive does not contain an obligation to allow re-use of documents it recognizes their potential economic value and the impact re-use can have on the developement of new services, technologies, etc. The main consideration behind such a regulation is that citizens as part of public are in fact owners of the information, that information is in fact financed by themselves (through taxes) and that consequently the should in principle also have the right to use it. Futhermore it shoul be noted that it is highly questionable whether effective means of control could be introduced, once data is provided on the internet.

A very impracticable solution is the ***proposed obligatory identification*** of individuals of a certain communication, though it is in principle very positive. Due to the global nature of the internet it is very much doubtful whether such a solution could be effectively operationalised in practice. Even more as the same Article 39 provides also for free international exchange of information through information networks. Adding both statements together it is highly questionable whether how the rule of Article 39, paragraph 2 could apply, if we have to suppose legitimacy of international exchange of information. Furthermore proposed legislation could be compared to »mandatory information, that has to be provided« by the provider of an information society service, following Articles 5 and 6 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce'). In this respect it should be however noted, that at least in comparative law such information provision requirements are limited to providers of certain services; most commonly to commercial use and not expanded to every communication.

2.4. Proposals for removal

Article 25 in is somewhat awkward relation to other draft bill provisions. It regulates in principle »spam« mail distribution, implementing an opt-out regime and the consequent setting-up of opt-out registers. »Spam« is a vast and global problem of the information society, which is however only in the very broadest sense connected to provision of public information. In comparative law, hereby we refer to the EU Directives, Especially the Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)[7], spam is tackled by legal provision governing electronic communication, electronic commerce, consumer protection and privacy protection. In this respect different approaches in criminalizing spam can be identified, to our knowledge however none of them is included in bills regulation public information provision. To this end the provision of paragraph 5 in Article 25 shall be sufficiently clear as to guarantee the applicability of relevant safeguards preventing »spam«.

Article 28, paragraph 6 should be removed for the reasons described above.

The ***right to create information technologies***, systems and networks is somewhat natural (presuming that it is not prohibited or conceded), thus the proposed legal statement of Article 38 seems obsolete. Other provision however, regulating state internal issues can remain as proposed.

Articles 45, 46, and 47 defining the operator of an informational system and relations between the owner of information and informational technologies, informational intermediary and owner of program and technical means, informational systems and networks and their mutual responsibilies seem obsolete in case an intermediary liabilty regime as proposed in the proposals for amendments is implemented.

[7] http://eur-lex.europa.eu/Result.do?T3=58&T1=V3&Submit=Iskanje&RechType=RECH_naturel&T2=2002

2.5. Proposals for amendments

A more comprehensive distintion on the applicability of legal instruments in the different legal fields. E.g. »if not provided otherwise by this act, relevant rules on intellectual property, state security, personal data and electronic communications shall apply« or »this law is without prejudice to provisions on intellectual property, personal data and electronic communications«.

Definition of the term public body. An essence of almost every proactive approach to public content regulation is defining the scope of entities, obliged to provide the information concerned. Typically the defining is very broad, enclosing al least governmental institutions at nation, regional and local level and all other institutions exercising public authority. An example of the definition is provided in the Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information: »Public« body means the State, regional or local authorities, bodies governed by public law and associations formed by one or several such authorities or one or several such bodies governed by public law, which is having legal personality; and is financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law«. Furthermore, the Directive 2003/38 governs also the term »body governed by public law« as any body established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character having legal personality and being financed, for the most part by the State, or regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law.«

Ensuring the equalisation of advanced electronic signatures which are based on a qualified certificate and which are created by a secure-signature-creation device to handwritten signatures and their admissibility as evidence in legal proceedings. This notion is widely accepted by the global community and also in international contractual relationships.

A more **comprehensive definition of public information** which is not publicly available, but also not limited for the reasons provided in the draft bill.

As far as ***legal status of subjects of information relations*** is concerned it should be noted that the comparative and prevailing legal approach, regulating legal status of different service providers only focuses on intermediaries and some different forms of their appearance. Such an approach is mostly based on provisions of Articles 12 – 14 of Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, regulating liability in case of mere conduit, caching and hosting services. In case of mere conduit (typically internet access services) the provider is not liable for information if he doesn't initiate the transmission, doesn't select the receiver and if he doesn0t select or modify the information. In case of caching (use of temporary files, cookies etc.) he can derogate from liability if he doesn't modify the information, complies with conditions on access to the information as well as rules regarding the updating of the information, doesn't interfere with the lawful use of technology and acts expeditiously to remove or to disable access to the information it has stored upon obtaining actual knowledge of the fact that the information at the initial source of the transmission has been removed from the network. In case of hosting he is obliged to act most conveninet as he will be only able to derogate from liability if he doesn't have actual knowledge of illegal activity or information and, or upon obtaining such knowledge or awareness, acts expeditiously to remove or to disable access to the information. To this end is should be also noted that some EU member states (e.g. Austria, Spain) have regulated also other forms of intermediary service providers liabilty as search engines and hyperlinks, both being more or less a combination of clauses descrbed above. The main consideration behind the provisions above is to establish an effective liabilty framework that functiones in a way self-regulatory, as the application of existing rules and procedures is often hindered as already observed in the analisys. Similar aims of regulation that can be observed in Article 46. An approach that can only be highly recommended.

3. Final observations

The aims of the Draft Bill on Information, Informatization and Protection of information of the Republic of Belarus are very ambitious, regulating some highlighted issues of information society. It should be however noted that at least as far as intellectual property and privacy protection are concerned, proposed regulation most likely interferes with an already established, and systematic legal framework. Thus questions on interpretation of relevant provisions arise, leading to legal uncertainty. Similar observations can be made also in assessing status of participants of the internet communication, however to a much lesser extent. A general recommendation could therefore be, that issues on privacy protection and intellectual property are left out, whereas other issues should be adapted in a more comprehensive manner. Observing existing international legal instruments, especially EU Directive in this respect is recommended and should prove as helpful.

Done in Maribor, Slovenia, the 4. of June 2007,

Klemen Tičar

Appendix 4
Shorter comments by international experts
Veni Markovski:

this is not a real law, in the European context, but rather a wishful document, and the real laws will have to be implemented in sub-laws. The proposed document is more of a strategy, rather than a law.

Ivar Tallo:
I think in the current form the draft is not useable first of all because it regulates almost nothing… it was incredible how many totally unsubstantiated loopholes were in the draft (I mean mainly the sentences at the end of paragraphs, "and with other laws and regulations ... " or the use of national security and law and order interests. You can ban anything with the law and you can ban anybody with violating the law, so it really does not give anything progressive into the legislation.

Second …it tries to cover so many different aspects for which other countries have developed other laws, so the draft has no focus at all. Maybe that is intentional, some arguments for it (like regulating the electronic provision of data) are good, but overall I don't support it.

[…] this law in its current form does not improve the situation in any way neither from the point of view of citizen nor a bureaucrat because of instead of creating clear rules of play it is totally ambiguous and allows for arbitrariness of decisions at any step which is exactly what this type of law is generally meant to prevent or rectify.

So leaving aside general democratic principles, it will not even help to streamline the government work and the only people who might benefit in the short term from it are heads of institutions who would have a chance to decide how they see fit,

Joe McNamee:
Article 8 suggests that there will be no specialized agencies undertaking implementation, meaning that the government will be able to be entirely arbitrary regarding what aspects of this legislation it enforces diligently and what aspects it does not. This is not a good starting point.

Looking at EU experience, the wording of the legislation is almost secondary to the political approach to its implementation. Greece has (thanks to the EU) one of the most sophisticated regulatory frameworks in the world, but implementation is terrible.

For example, the protection of information: The EU has some of the most advanced legislation in the world for protection of personal data, but several countries (UK, Ireland and Belgium, for example) have very few resources devoted to ensuring that this legislation is implemented. So, when I read the protection of information provisions in the Belarusian law, all I know is that there are provisions that *might* be useful, but might not be... depending on whether the government intends to devote enough resources to implementing them.

Article 22 seems very worrying because it is based on the intent of a particular action, rather than the action itself. Article 37 appears to be impossibly broad... allowing the government to decide who will be covered by it and when... the whole point of legislation is to avoid totally arbitrary behavior.

Even an aspiration that the law is in compliance, or is a step towards compliance, with the European Convention on Human Rights (I'm aware of the rather problematic history of the Council of Europe and Belarus) would have been a welcome and positive signal, the absence of such a reference is disappointing.

The biggest problem is that the provisions are so wide and the provisions for implementation so vague that the legislation offers significant possibilities for abuse.

The privacy provisions are helpful, but there is plenty of experience of privacy legislation in neighbouring countries that has not been used – this calls into doubt the seriousness of the government in prioritising this aspect of the legislation

All unnecessary references to government websites, all registration requirements which have not been shown by international best practice to be useful should be probably removed from the draft.

There should be added provisions to bring the legislation into line with the two CoE Conventions on protection of personal data.

Bogdan Manolea:

As regards the Internet I support a minimum of laws and regulation in this field for some reasons :
- is a very active field where the applications are changing every day, so any regulation will become obsolete as soon as it passes 1 year
- it is a borderless space, so regulation may not be imposed and/or can create just obstacles and not advantages for citizens and businesses.
- the other existent legislation will apply to the activities on the Internet, you don't need a special law to state that the general legislation applies to the Internet...

Besides that, the terms used are confusing and very detailed defined, without any concrete purpose.
I will suggest to rather have in a separate document what is the purpose of the law (in 3 paragraphs) and what it tries to regulate (with bullet points). But to me it looks - most of it like a declaration of intentions and not a low with good results.

Also, it could be good if Belarus can "talk" the same language as the EU in this field, so about information society services (online services), electronic communication providers (telecoms and ISP) and doesn't try to create something new that will be applied and (perhaps ?) understood only in Belarus.
After all, the Internet is not a national, but an international network.

Some pointing about some articles :
Article 8. Bodies that perform state regulation and control in the sphere of information, informatization and protection of information State regulation and control in the sphere of information, informatization and protection of information shall be carried out by the President of the Republic of Belarus, Council of Ministers of the Republic of Belarus, State Center on Information Security of/under the President of the Republic of Belarus, Ministry of Communication and Informatization of the Republic of Belarus, National Academy of Science of Belarus and other state bodies in accordance with competency assigned by the present Law and other legislative acts of the Republic of Belarus.

There are many bodies and the list is not even complete. Ideally you should have just 2 or maximum 3 bodies that deal with the implementation - probably just the Ministry of Communications and State Center on Information Security .

The President and the Government do not need to decide on all the details that follow this law.

Article 22. Information of denied provision and (or) distribution It shall be forbidden to spread and distribute information that:

is directed towards a violent change of a constitutional system, propaganda of war ,raising racial, national or religious hostility or discord towards humiliation of national honor and dignity;

infringes upon morals, dignity, honor and business reputation of citizens, business reputation of legal entities;

other information, provision and (or) distribution of which is prohibited according to legislative acts of the Republic of Belarus.

This is actually censorship, because almost any critical article posted can be interpreted as a "humiliation of national dignity" or "infringe moral or business reputation"... This is just bullshit. In theory you should have just 2 types of content that should be illegal :

- child pornography

- racist content (although that is not a crime in all the countries).

All the rest should be permitted. If someone is offended by something, they can sue him (her) in a civil court on the common law.

Jean-Eric de Cockborne

If the law is adopted it will restrict freedom of information and media freedoms in a manner which is contrary to European standards as established in various instruments of the Council of Europe and the European Union.

Article 10 of the European Convention of Human Rights proclaims freedom of expression, including the right to hold opinions and to receive and impart information and ideas without interference by public authorities and regardless of frontiers. Article 6 of the Treaty on the European Union specifies that the Union respects Fundamental Rights as guaranteed by the European Convention on Human Rights, including freedom of expression and information.

If these freedoms are assumed, then it is clear that legislation need only describe rules and procedures for their exercise and lay down such restrictions and exceptions from them as are acceptable in a democratic society.

The European Court of Human Rights has consistently held that any restrictions on freedom of expression, based on the exhaustive list of reasons for such restrictions in para. 2 of Art. 10 of ECHR, must be prescribed by law, narrowly interpreted, must respond to a pressing social need, pursue a legitimate aim, must be pertinent and proportional to the aim pursued, and necessary in a democratic society.

The Declaration on the Freedom of Expression and Information, adopted by the Committee of Ministers of the Council of Europe on 29 April 1982, regards the freedom of expression and information as vital for the social, economic, cultural and political development of every human being and as an essential foundation of democracy, and calls on States to guard against infringements of the freedom of expression and information.

The draft law includes provisions, which contradict these well-established European standards on freedom of information and freedom of the media.

Firstly, the main objective of the draft law seems to be the creation of a state system of control of information headed by the President and State Centre of Information Security, subordinated to the President. Divisions for the information dissemination control and supervision are to be established in every state institution and every government body involved in "information with restricted access" circulation. The creation of such a state system of control frontally contradicts freedom of information as the right to hold opinions and to receive impart information and ideas without interference by public authorities, as defined by the European Court of Human Rights.

Moreover, measures of general surveillance of communications without any specific prior suspicion against those being monitored constitute a fairly serious interference with the right of these persons to secrecy of telecommunications and can interfere with the right to freedom of expression and information, as established by the European Court of Human Rights.

Secondly, several articles of the draft law grant vague and unlimited powers to state bodies to further limit freedom of information in contradiction with the exhaustive list of reasons for such restrictions in para. 2 of Art. 10 of ECHR.

Thirdly, the ban of information for conducting activities that aim at humiliation of national honour and dignity, and information that infringes upon morals, dignity, honour and business reputation seem to contradict the principle that restrictions to freedom of information must be narrowly interpreted and proportional to the aim pursued as defined by the European Court of Human Rights.

Finally, the possibility to limit and suspend the international exchange of information is also not in line with the right to receive impartial information regardless of frontiers.

Herbert Burkert

I concentrate my comments on the sections of CHAPTER III ff. - These sections most closely correspond to access to information and data protection laws in the tradition I know of. The other sections seem to address information policy and information security issues as well as the establishment of national information systems.

It is, of course, intriguing for a (social) scientist to see an attempt to classify and structure the issues of information in society in general. Such approaches (of which e.g. Art. 4 ff are very typical, an approach which I had first came across among Bulgarian law professors a long time ago) - in my view - has some limitations which then need to be addressed with extra care. For example, for classification purposes a class "Information subjects" or "information owners" might indeed be created for logical purposes (leaving aside the question whether information can actually be owned in the proper sense). This class would the comprise - as the law does at various instances - state bodies, private entities and citizens. References to the rights, obligations, relations of these subjects/owners (as e.g. in Art. 15) would then always refer to state bodies, private entities and individuals AS ONE GROUP, although there are significant differences between the members of this group, differences e.g. regarding the amount of protection or support they would need or rights they should have. Therefore such generalities in my view should be avoided and clear references should be ade (as the prosed law indeed sometimes does) to specific constellations and the rights and duties within these specific constellations. like e.g. the constellation State bodies - individuals Such an approach would still fit into the general approach the proposed law takes.

Appendix 5
Draft Law on information, informatization and information protection (unofficial translation)

Draft
Proposed by the Council of Ministers of the Republic of Belarus

LAW OF THE REPUBLIC OF BELARUS

On Information, Informatization and Protection of information

Adopted by the Chamber of Representatives
Approved by the Council of Republic

CHAPTER 1
GENERAL PROVISIONS

Article 1. Incidence of the present Law

1. The present Law shall regulate social relations observed in cases of:

exercising the right to search, transmission, receipt, storage, processing, use, distributing and (or) provision of information, including informational resources (hereinafter, if not defined otherwise, referred to as information);

creation and usage of informational technologies, informational systems and networks (hereinafter referred to as informational technologies, systems and networks);

rendering informational services;

organizing and ensuring protection of information.

2. Peculiarities of social relations connected with mass media activity shall be regulated by the Legislation of the Republic of Belarus on Mass Media.

3. Peculiarities of social relations connected with usage and protection of information constituing state secrets or with usage and protection of informational systems that contain state secrets shall be regulated by Legislation of the Republic of Belarus on State Secrets.

4. The present Law shall not regulate social relations connected with protection of information as an subject of intellectual property.

5. Whereas not regulated by the present Law, relations in the sphere of information, informatization and protection of information should be regulated by other legislative acts of the Republic of Belarus.

Article 2. Basic notions used in the present Law, and their definitions

The present Law shall use the following basic notions and their definitions:

database – a combination of structured and interrelated information that is arranged on material carriers according to certain rules;

databank – an organizational technical system that includes one or several databases and their control system;

owner of program and technical means (hardware), informational systems and networks – a state body (organization), citizen, private entrepreneur or legal entity that upholds the property and use of program and

technical means, informational systems and networks and uses the powers placed at his disposal within the norms specified by acts of legislation or an agreement;

state informational system – an informational system created and (or) obtained at the expense of state or local budgets, state off-budget funds, or by means of state legal entities;

state informational resources – informational resources created and (or) obtained at the expense of state or local budgets, state off-budget funds, or by means of state legal entities;

citizens – citizens of the Republic of Belarus; foreign citizens and stateless persons;

documented information (document) – information that has been fixed on a material carrier with requisites that allow to identify it;

domain name – a character (character-numerical) key formulated according to addressing rules of an informational network, that is assigned with a certain network address or a group of addresses;

access to information – a possibility to acquire information, including informational resources, and its (their) usage;

protection of information – a complex of legal, organizational and technical measures set to provide integrity (invariability) of confidentiality, accessibility and safety of information from illegal (unsanctioned) access, destruction, freeze, copying, provision, distribution and other unlawful actions towards information under protection;

informatization – organizational, socio-economic, scientific and technical process of creation and development of a joint informational space of the Republic of Belarus as a combination of interconnected informational resources, informational systems and informational networks that provide conditions for realization of informational relations;

information – data about individuals, objects, facts, events, phenomena and processes regardless the form of its provision;

information of limited provision and (or) distribution – information, access to which is limited by the legislation of the Republic of Belarus or by the owner of information in accordance with the legislative acts of the Republic of Belarus;

information of denied provision and (or) distribution – information, access to which is forbidden by legislation of the Republic of Belarus or by the owner of information in accordance with the legislative acts of the Republic of Belarus;

informational system – a combination of information concentrated within databases and of informational technologies and complex of program and technical means that provide processing of this information;

informational system with limited access – an informational system that contains information limited for provision and (or) distribution;

informational network – a complex of program and technical means that is designed to transmit information through telecommunication networks and to provide access to information;

informational service – activity that provides search, acquisition, storage, processing, distribution and (or) provision of information;

informational resources – separate documents and separate massifs of documents, documents and massifs of documents within informational systems (libraries, archives, funds, databanks, other informational systems);

information intermediary – a citizen, private entrepreneur or legal entity that renders informational services to owners and (or) users of information;

informational relations – relations that appear during the process of collection, search, transmission, receipt, storage, processing, accumulation, use, distribution and (or) provision of information and its protection with the usage of informational technologies, systems and networks;

informational technologies – a combination of processes and methods of search, transmission, receipt, storage, processing, use, distribution and (or) provision of information;

complex of program and technical means – a combination of program and technical means that provide implementation of informational processes;

confidentiality of information – a demand not to permit provision and (or) distribution of information without an approval of its owner or on another basis set by legislation of the Republic of Belarus;

non-governmental informational system – an informational system created and (or) obtained at the expenses of citizens and (or) non-governmental legal entities;

non-governmental informational resources – informational resources formed and used by citizens and (or) non-governmental legal entities;

owner of information, informational technologies – a state body (organization), citizen or a legal entity that has created information or has obtained proprietorship of information in accordance with the present Law on the basis of a legal act of the Republic of Belarus;

publicly available information– information, provision and (or) distribution of which is not limited;

publicly available informational system – an informational system containing informational resources that are provided and (or) distributed by their owner without indicating terms of their subsequent use; informational resources, provision and (or) distribution of which is free and does not depend on the form and way of their distribution and (or) provision;

operator of an informational system – a legal entity, private entrepreneur that operates an informational system;

official website of a state body (organization) – a site containing information about a state body (organization) and created by its (body's/organization's) decision;

personal data – a combination of documented information about a citizen that allows to identify him;

provision of information – activities that aim at getting a certain circle of parties acquainted with information;

user of information, informational systems and networks – a state body (organization), citizen, private entrepreneur or a legal entity that has obtained access to information, informational systems and networks within the order of legislation of the Republic of Belarus or according to an agreement between parties that exercise the right to receive and use information, informational systems and networks in accordance with the present Law or other legislative acts of the Republic of Belarus;

professional secret – information about third parties obtained by citizens when fulfilling their professional (labor, official) duties;

public information – information about work of state bodies (organizations), legal entities and their decisions that is liable to be provided and (or) distributed in cases and within the norms defined by legislation of the Republic of Belarus;

distribution of information – activities that aim at getting a non-specified circle of parties acquainted with information;

owner of program and technical means, informational system and networks – a state body (organization), citizen or a legal entity that exercises rights to own, use and manage informational systems and networks;

website – an informational resource allocated within an informational network and assigned to a certain address together with an exceptional right to use a domain name, databases and computer programs that provide access to such informational resource;

net address – an address of location of information within an informational network;
Internet – a global (international) public informational network;

technical protection of information – ensuring security of information that contains state secrets or other data shielded by legislation from drain through technical channels, unsanctioned and unpremeditated influences;

e-message – textual, graphic, audio-visual or other type of information subject to transmission and receipt in an electronic format within informational systems;

legal entities – legal entities of the Republic of Belarus, foreign legal entities.

Article 3. Legislation on Information, Informatization and Protection of information

Legislation on Information, Informatization and Protection of information is based on the Constitution of the Republic of Belarus and consists of acts of the President of the Republic of Belarus, the present Law, other legislative acts of the Republic of Belarus and international agreements of the Republic of Belarus that regulate informational relations.

Article 4. Principles of legal regulation of informational relations

Legal regulation of informational relations shall be conducted on the basis of the following principles:

freedom of creation, search, transmission, receipt, storage, processing, use, distribution and (or) provision of any type of publicly availabe information;

timeliness of provision, objectivity, completeness and authenticity of information that is, by provisions of legislation of the Republic of Belarus, obligatory for public distribution and (or) provision by state bodies (organizations);

inviolability of a private life of a citizen, protection of personal data;

protection of personal, societal and state security while using information and informational technologies;

inadmissibility of prioritizing one type of informational technologies over other types, should obligatoriness of using certain informational technologies for creation and operation of state informational systems not be specified by legislative acts of the Republic of Belarus;

combination of state regulations and self-regulation while using informational systems and networks.

Article 5. Objects of informational relations

Objects of informational relations shall be:
information;
databases and databanks;
informational resources;

informational technologies;
complexes of program and technical means;
informational systems;
informational networks;
informational services.

Article 6. Subjects of informational relations

1. Subjects of informational relations shall be:

The Republic of Belarus and its administrative and territorial units represented by state bodies (organizations);
citizens;
private entrepreneurs;
legal entities;
international organizations;
foreign states.

2. Subjects of informational relations in accordance with the present Law may act as:

owners of information and informational technologies;
owners and other legal possessors of program and technical means, informational systems and networks;
users of information, informational systems and networks;
informational intermediaries;
operators of informational systems.

CHAPTER 2
STATE REGULATION WITHIN THE SPHERE OF INFORMATION, INFORMATIZATION AND PROTECTION OF INFORMATION

Article 7. Basic trends of state policy in the sphere of information, informatization and protection of information

Basic trends of state policy within the sphere of information, informatization and protection of information shall be:

to provide conditions for realization and protection of rights of citizens and legal entities in the sphere of information, informatization and protection of information;

to create an effective system of informational support on solving strategic and current tasks of socio-economic, scientific and technical development; to ensure independent and equal in rights existence of the Republic of Belarus within the framework of international community;

to provide conditions for development of informational technologies, informational systems and networks on the basis of unified principles of technical normalization and standardization, estimation of correspondence to requirements of technical legal acts in the sphere of technical normalization and standardization;

to form and implement joint scientific, scientific and technical, industrial and innovation policy within the sphere of information, informatization and protection of information taking into account available scientific and industrial potential and modern level of global informational technologies development;

to create and improve the system of fundraising and mechanisms of encouragement for development and implementation of projects in the sphere of information, informatization and protection of information;

to assist in development of a market of informational technologies and services, to provide conditions for formation and development of all types of informational resources, informational systems and networks;

to provide conditions for active participation of citizens, legal entities and state in the process of international cooperation;

to create conditions for effective use of global (international) informational networks in the country;

to ensure informational security of citizens, legal entities and state;
to improve legislation of the Republic of Belarus in the sphere of information, informatization and protection of information.

Article 8. Bodies that perform state regulation and control in the sphere of information, informatization and protection of information

State regulation and control in the sphere of information, informatization and protection of information shall be carried out by the President of the Republic of Belarus, Council of Ministers of the Republic of Belarus, State Center on Information Security of/under the President of the Republic of Belarus, Ministry of Communication and Informatization of the Republic of Belarus, National Academy of Science of Belarus and other state bodies in accordance with competency assigned by the present Law and other legislative acts of the Republic of Belarus.

Article 9. Powers of the President of the Republic of Belarus in the sphere of information, informatization and protection of information

The President of the Republic of Belarus, in accordance with the Constitution of the Republic of Belarus, the present Law and other legislative acts of the Republic of Belarus, shall define joint state policy and conduct other state regulations in the sphere of information, informatization and protection of information.

Article 10. Powers of the Council of Ministers of the Republic of Belarus in the sphere of information, informatization and protection of information

Council of Ministers of the Republic of Belarus in the sphere of information, informatization and protection of information shall:
ensure implementation of the joint state policy;
coordinate, guide and control work of republican bodies of state management;

approve of state programs and ensure their implementation;

fulfill other powers assigned to it by the Constitution of the Republic of Belarus, laws, acts of the President of the Republic of Belarus.

Chapter 11. Powers of the State Center on Informational Security under/of the President of the Republic of Belarus in the sphere of information, informatization and protection of information

State Center on Informational Security under/of the President of the Republic of Belarus in the sphere of information, informatization and protection of information shall:

define priority areas of technical protection of information;

coordinate activities within the sphere of technical protection of information;
within the range of its powers control activities on ensuring technical protection of information;
participate in the process of drafting normative and legal acts in the sphere of technical protection of information;

conduct licensing of work within the sphere of technical protection of information;
organize and implement activities on technical protection of information allocated in the national segment of Internet;
fulfill other powers in accordance with the present Law and acts of the President of the Republic of Belarus.

Article 12. Powers of the National Academy of Sciences of Belarus in the sphere of information, informatization and protection of information

National Academy of Sciences of Belarus in the sphere of information, informatization and protection of information shall:

participate in the process of drafting normative and legal acts;

ensure scientific and methodological maintenance for development of informatization and implementation of state programs;

fulfill other powers in accordance with the present Law and other legislative acts of the Republic of Belarus.

Article 13. Powers of the Ministry of Communication and Informatization of the Republic of Belarus in the sphere of information, informatization and protection of information

Ministry of Communication and Informatization of the Republic of Belarus in the sphere of information, informatization and protection of information shall:

implement joint state policy, conduct state regulation and control;

develop and implement state programs;

participate in the process of drafting normative and legal acts;

form and use own informational resources, coordinate work on generating informational resources of state bodies (organizations);

define compatibility conditions of informational resources of state bodies (organizations);

encourage creation of modern informational technologies, informational systems and networks;

conduct international cooperation, including cooperation with international organizations, ensure implementation of international treaties the Republic of Belarus is engaged into;

fulfill other powers in accordance with the present Law and other legislative acts of the Republic of Belarus.

Article 14. Powers of other state bodies in the sphere of information, informatization and protection of information

State bodies in the sphere of information, informatization and protection of information shall, within the bounds of their powers:

participate in implementation of joint state policy;

generate and use own informational resources;

carry out technical normalization and standardization in the sphere of informatization, informational technologies, informational systems, networks and their maintenance tools;

define affirmation of comprehension of informational technologies, informational resources, systems and networks and requirements of legal and normative technical acts in the sphere of technical normalization and standardization;

fulfill other powers in accordance with the present Law and other legislative acts of the Republic of Belarus.

CHAPTER 3
RIGHT TO INFORMATION. LEGAL REGULATIONS OF INFORMATION

Article 15. Content of the right to information

1. State bodies, citizens and legal entities shall, in accordance with the present Law and other legislative acts of the Republic of Belarus, have a right to create, search, request, transmit, receive, store, proceed, use and distribute information.

2. A citizen shall have a right to receive information from state bodies (organizations) about himself, as well as information that touches directly upon his rights, freedoms, legal interests and obligations, within the order specified by the present Law and other legislative acts of the Republic of Belarus.

A legal entity shall have a right to receive from state bodies (organizations) information that touches directly upon its rights, freedoms, legal interests and obligations, within the order specified by the present Law and other legislative acts of the Republic of Belarus.

3. Citizens and legal entities shall have a right to get acquainted with information about work and activities of state bodies (organizations) within the bounds and norms specified by the present Law and other legislative acts of the Republic of Belarus.

Article 16. Inadmissibility of abuse of the right on information

Abuse of the right on information shall not be allowed.

Right on information cannot be used for a violent change of a constitutional system, violation of territorial integrity of the state, for propaganda of war, violence and cruelty, for raising social, national, religious or racial hostility or discord, for conducting activities that aim at humiliation of national honor and dignity, for infringement on rights, freedoms and legal interests of citizens and legal entities, and for conducting other unlawful actions.

Chapter 17. Guarantees for the right on information

1. State shall secure implementation of the right on information to its citizens and legal entities.
2. State bodies (organizations), their officials shall be liable to:

create conditions necessary for implementation of the right to information;

ensure reliability and completeness of information they render, observing timeframes and conditions of its provision;

take no charges for providing information, should other not be specified by legislative acts of the Republic of Belarus.

3. Action (inaction) of state bodies (organizations) or their officials that violates the right to information may be appealed against to a higher state body (organization) (higher authority) and (or) in court.

4. Officials of state bodies (organizations) guilty in violating the right on information shall bear responsibility in accordance with the legislation of the Republic of Belarus

5. Should an illegitimate denial of access to information, violation of timeframes of provision of information, provision of deliberately false or incomplete information cause damage, it shall be compensated accordingly with provisions of civil legislation of the Republic of Belarus.

Chapter 18. Types of information

1. Depending on the form of its provision, information shall be divided into:

documented information (document);

undocumented information.

2. Depending on the possibility of distribution and (or) provision of information, information shall be divided into:

publicly availabe information;

information of limited provision and (or) distribution.

3. Depending on the order of provision and (or) distribution, information shall be divided into:

information distributed by its owner without limitations;
information that is spread and (or) distributed according to an agreement between parties taking part in provision and (or) distribution of information;

information, provision and (or) distribution of which is set as obligatory by the legislation of the Republic of Belarus (public information);

information with special rules of its provision and (or) distribution set by the legislation of the Republic of Belarus;

information, provision and (or) distribution of which is prohibited.

4. Acts of legislation of the Republic of Belarus may define other types of information; special legislative regulations of separate types of information (statistical, legal, scientific and technical, etc.) have been set depending on the character (content) of information.

Article 19. Documented information (document)

Requirements for creation, processing, storage, use, provision and (or) distribution of documented information shall be defined by legislative acts of the Republic of Belarus or accordingly to an agreement between the parties involved into informational relations.

Article 20. Publicly available information

1. Publicly available shall be information that has on the legal basis been promulgated through mass-media, put into informational networks, directories and transmitted through other publications; as well as other information, provision and (or) distribution of which is not limited by its owner or by legislative acts of the Republic of Belarus.

2. State bodies (organizations), citizens and legal entities shall have a right to:
search, receive, use and distribute publicly available information;

get acquainted with publicly available information and store it;
in case of distribution of publicly available information, upon a request of the owner of information, mention him as a source of information.

Chapter 21. Information of limited provision and (or) distribution

1. Information of limited provision and (or) distribution shall include:

information about private life of a citizen and his personal data;
information that constitutes a state, trade or professional secret;

official (service) information of limited distribution;
information contained in materials of criminal prosecution or court bodies untill the case is dismissed;

information connected with organizational and technical provision for work of a state body (organization), legal entity, including information about preliminary decision, internal official (service) correspondence;

other information according to the acts of Belarusian legislation.

2. Limitations for provision and (or) distdibution of information constituing state secrets by foreign citizens, stateless persons and citizens who permanently live on the territory of a foreign country shall follow the order defined by The President of the Republic of Belarus.

3. Users of information of limited provision and (or) distribution shall be liable to ensure its safety and not distribute it (fully or partially) to third parties without a concord of the owner of information.

Owner of information of limited provision and (or) distribution shall be liable to take preventive measure of protection of such information.

4. Limitations for provision and (or) distribution cannot be set to information:

on rights, freedoms, legal interests and responsibilities of citizens, as well as on rights, legal interests and responsibilities of legal entities and on the order of realization of rights, freedoms and legal interests;

about emergency situations, environmental and anthropogenic catastrophes, ecological, meteorological, sanitary-epidemiological and other information that ensures public security;

on legal status of state bodies (organizations), apart from information that cinstitute state secrets or other information protected by legislation of the Republic of Belarus;

on status of crime prevention process;

information accumulated in open funds of libraries and archives, informational systems of state bodies (organizations), legal entities that have been created (generated) for rendering informational services to citizens.

Article 22. Information of denied provision and (or) distribution

It shall be forbidden to spread and distribute information that:

is directed towards a violent change of a constitutional system, propaganda of war,raising racial, national or religious hostility or discord towards humiliation of national honor and dignity;

infringes upon morals, dignity, honor and business reputation of citizens, business reputation of legal entities;

other information, provision and (or) distribution of which is prohibited according to legislative acts of the Republic of Belarus.

Article 23. Information about private life of a citizen and personal data

1. Every person shall have a right to protection of personal information, including the right to inviolability of private life from intervention of and (or) conrol by third parties, for privacy of correspondence, phone and other conversations, for private and family secret.

Content of information that contains data about private life of a citizen shall be defined by a citizen himself.

Content of information that contains personal data, as well as order of receipt, collecting, processing, use and storage of personal data shall be defined by the legislative acts of the Republic of Belarus.

Personal information shall be gathered, processed, used and stored in accordance with a consent of a citizen, should other not be specified by legislative acts of the Republic of Belarus.

2. No one shall have the right to demand from a citizen information about the facts of his personal life, including information that constitutes private and family secrets, information about his health, viewpoints, political and religious beliefs, or to collecting such information in any other way against the will of the person, apart from cases specified by legislative acts of the Republic of Belarus.

3. Every person shall have the right to take any legal measures in order to protect inormation about his private life and to demand any other party to follow stipulations of these measures.

4. Collecting , proceessing, use and storage of personal information shall be defined by the purpose for which it is collected, processed, used and stored.

Article 24. Information that constituets state secrets, official (service) information of limited distribution, business and professional secrets

1. Legal regulations of information that constitutes state secrets shall be defined by the legislation of the Republic of Belarus on State Secrets.

2. Legal regulations of official (service) information of limited distribution shall be defined by the Council of Ministers of the Republic of Belarus.

3. Legal regulations of information that constitutes a trade secret shall be defined by civil legislation of the Republic of Belarus.

4. Professional secret shall be a subject to legal protection in cases if parties assigned with access to information are empowered by legislation of the Republic of Belarus to take measures on ensuring protection of such information.

Professional secrets shall include patient confidentiality, advocacy secret, seal of confession, banking and taxation secrecy, social security confidentiality, secret of notarial act, secret of the ballot of rendition proceedings and other secrets defined as professional in accordance with the legislation fo the Republic of Belarus.

5. Information that constitutes a profesisonal secret may be revealed on the basis of a court decision, if other measures are not specified by the present Law or other legislative acts of the Republic of Belarus.

Information that constitutes advocacy secrets and seal of confession shall never be revealed.

6. Responsibilities for ensuring non-discretion of information that constitutes a professional secret shall be fulfilled by parties that carry out corresponding professional activities, by taking legislative, organizaitonal and technical access-preventive measures.

7. Time frames on fulfilling responsibilities for non-discretion of a professional secret cannot be limited.

8. Peculiarities of legal regulation of information constituing professional secrets shall be defined by legislation of the Republic of Belarus.

CHAPTER 4
ORDED OF PROVISION AND DISTRIBUTION OF INFORMATION

Article 25. Provision and distribution of information

1. Distribution of information in the Republic of Belarus shall be done freely, if all requirements set by legislation of the Republic of Belarus are observed.

2. Infomraiton for distribution shall contain authentic facts about its owner and distributor, in the form and scope sufficient to identify these persons.

3. When distributing information using technical means that allow a certain circle of people get acquiainted with information, owner of information and information intermediary shall provide users of information with an option of a refusal to receive information that is being spread by such means.

4. Should the owner of information, information intermediary or the owner of an informational network receive (or by any other legislative means acquire) notification about unwillingness of a certain user to receive information distributed, the owner of information, information intermediary or the owner of informational network must take measures to prevent receipt of such information by the user of information that has claimed his unwilingness to receive such information.

5. When distributing information of advertising or similar content by post or through informational networks, distributers shall observe legislative requirements of the Republic of Belarus on Telecommunications, Mail service and Advertising.

6. Cases and requirements of compulsory distribution and (or) provision of information, including provision of mandatory copies of documents, shall be regulated by legislation,
legal acts of the President of the Republic of Belarus and the Council of Ministers of the Republic of Belarus.

Article 26. Order of provision of publicly available information upon a request

1. Access of an interested party to publicly available information upon a request may be conducted in form of:

acquiaintance with official documents that contain requested information;
receiving a copy of the corresponding document, certificate or extracts from it;
receiving a written reply (reference) that contains requested information;
receiving a verbal statement of the conent of requested information;

receiving an e-message transmitted through informational networks, including Internet.

2. Requests of information shall be addressed to the owner of information in the form of a:
verbal inquiry;
written request;
electronic message transmitted through informational networks, including Internet.
3. Citizens and legal entities shall have the right to request information in person or through representatives.

4. A written request of publicly available information shall contain:

name and residence address of the owner of information;

information about the requester (last name, first name of a citizen, his residence information, residence address of a private enterpreneur, name and address of a legal entity);

title of a requested document or conent of requested information;

individual signature of a citizen (private enterpreneur, head of a legal entity or its authorized representative).
5. Electronic request of publicly available information shall include data specified in paragraphs 2-4 pt.4 of the present Article.

6. Written request of information shall be submitted togeter with documents proving powers of persons who request information on behalf of other people in cases foreseen by civil law of the Republic of Belarus (copies of a letter of attorney, court decision, birth certificate, act of a state body, other documents).

Article 27. Order of processing verbal and electronic requests on providing publicly available information

1. Verbal inquiry of publicly available information shall be subject to registration and accountability by the owner of this information.

2. Registration of verbal inquiries of publicly available information shall be done by the owner of information on a paper carrier or electronically with specification of the date and time of receipt of such inquiry.

3. In cases if requested information cannot be presented while processing a verbal inquiry, the inquiry shall be developed into a written request that shall consequently be processed as specified by Article 28 of the present Law.

4. Electronic requests of publicly available information shall be processed if such a responsibility is fixed in the legislation of the Republic of Belarus or by the owner of publicly available information.

Article 28. Order of processing written requests of provision of publicly available information

1. Upon the results of processing a written request, a decision shall be made about presenting publicly available information to a requester or a denial of presenting such information.

2. Decision about a written request shall be made and corresponding information presented, or a decision on a denial of information shall be made within one month after receipt of the quiery; and requests of information that need no additional investigation shall be processed within 15 days.

In cases if requested information cannot be presented within the timeframes specified in part one of the present pt., a requester shall, in a written form, be notified about extension of a deadline for presenting information, but not longer than for fifteen days. Written notification shall contain reasons of such prolongation of a deadline for presenting requested information.

Written requests submitted to state bodies (organizations), legal entities that are not owners of information, shall, within five days, be forwarded to corresponding owners of information, and a notice about this process shall be sent to a requester of information; or an explanatory answer shall be given within a fifteen-days term about state body (organization) or a legal entity that should be addressed when requesting such information.

3. Peculiartities of provision and distribution of publicly available information that is being stored in archives and library funds shall be regulated by legislation of the Republic of Belarus on Archive and Library Affairs.

4. Grounds for a denial of provision of information shall include:

non-observance of requirements set towards form and content of information request specified in pt. 4 Article 26 of the present Law;

cases when information requested is information of limited and (or) denied provision and (or) distribution;

cases when distribution of requested information may harm national security, state or public interests;

cases when provision of information lies outside competences of a state body (organization), does not fall under a range of activities a legal entity (private enterpreneur) that has received a request of information is entitled to;

impossibility of presenting information due to its absence, full or partial loss of information.

5. Denial of provision of information may be appealed against to a higher state body (organization) (higher authority) and (or) in court

6. Information received upon a written request within the order specified in Article 26 of the present Law may not be used, distributed and (or) spread for commercial purposes.

Article 29. Order of provision and (or) distribution of publicly available information on activities of state bodies (organizations)

1. Main types of provision and (or) disctirbution of publicly available information on activities of state bodies (organizations) shall be:

promulgation (publication) of publicly available information by state bodies (organizations);

placement of information on activities of state bodies (organizations) in public places;

installment of publicly available information into informational networks, including Internet;
provision of publicly available information to interested citizens and legal entities on the basis of their requests.
2. In order to inform citizens and legal entities about their activities, state bodies (organizations) shall:

arrange informational boards and other technical means of similar purpose in public places in order to get citizens and legal entities acquainted with information about activities of a corresponding state body (organization);

design and support official websites and other informational resources within informational networks, place information about activities of a corresponding state body (organization) onto these websites and other informational resources.

Article 30. Requiremets for official websites of state bodies (organizations) within Internet

1. Official websites of state bodies (organizations) shall obligatory contain the following information:

official name of a state body (organization);

residence address of a state body (organization), contact phone number (fax), email address;

organizational structure of a state body (organization) (leadership, departments, contact phone numbers);

work schedule of a state body (organization) and appointment time for citizens;
legal acts that regulate activities of a state body (organization);

other information upon a decision of a head of a state body (organization).
Legislation of the Republic of Belarus may establish specifications for placing information on the official websited of state bodies (organizations).

2. An official website of a state body (organization) may not contain:

pre-election agitation materials, agitation materials about referendums;

advertisements, including social advertising;
information of limited and (or) denied provision and (or) distribution.

3. Information on types of access to official websites of state bodies (organizations) shall be promulgated (published) for general knowledge.

CHAPTER 5
INFORMATIONAL RESOURCES

Article 31. Types of informational resources. Legal regulations of informational resources

1. Informational resources shall be divided into state and non-governmental informational resources.

2. State informational resources shall include basic, departmental and territorial informational resources.

Content of state informational resources, as well as orded of their formation and provision to users shall be defined by the Council of Ministers of the Republic of Belarus.

3. State bodies (organizations), citizens and legal entities shall present documented information to state bodies (organizations) and legal entities empowered to form state informational resources, according to the order set by legislation of the Republic of Belarus.

Order and terms of provision of information mentioned in part one of the present pt. shall be set by the Council of Ministers of the Republic of Belarus.

4. Informational resources that supply sovereignty of the Republic of Belarus, that determine its economic, social, cultural and defence development may, by a decision of the President of the Republic of Belarus, be considered as resources of a national value.

Article 32. State registration of informational resources

1. State registration of informational resources shall be done for the purpose of creating a joint system of record and integrity of informational resources, in order to create conditions for their transfer into archive storage, to provide informational support for work of state bodies (organizations), in order to inform citizens and legal entities about the content of informational resources of the Republic of Belarus.

2. State registration of informational resources shall be conducted by the National Academy of Sciences of Belarus through adding informational resources into State register of informational resources.

Order of formation and administration of the State register of informational resources shall be provided by the Council of Ministers of the Republic of Belarus.

3. Informational resources that are subject to compulsory state registration shall be:

state informational resources;

informational resources considered resources of national value and containing no data that constitute state secrets or other information under protection by legislation of the Republic of Belarus.

4. Informational resources, apart from those mentioned in pt.3 of the present Article, shall be registered within the State register of informational resources on a voluntary basis.

5. Order of registration of informational resources containing information of limited provision and (or) distribution, shall be defined by the State Center on Information Security of/under the President of the Republic of Belarus.

6. Order of registration of informational resources of the state security bodies of the Republic of Belarus shall be defined by the Committee on State Security (KGB) of the Republic of Belarus.

7. Informational resources undergoing state registration shall be submitted in the format allowing to process them using program and technical means.

Article 33. Basic informational resources

1. Basic informatinal resources shall be resources of public use, including national registries (records) created on the basis of legisltative acts of the Republic of Belarus, and used for the purpose of informational provision of work of state bodies (organizations), and satisfaction of informational needs of citizens and legal entities.

2. Basic informational resources shall form the basis for integration of informational resources of a national value.

3.Basic informational resources shall include:

population register;

Joint state register of legal entities and private enterpreneurs;

Joint state real estate register, register of rights to real estate and real estate contracts;

National register of legal acts of the Republic of Belarus;
other informational resources e defined as basic informational resources by the legislation of the Republic of Belarus.

Article 34. Departmental informational resources

1. Departmental informational resources shall contain information needed for informational provision of work of state bodies (organizations) and in connection with their competences defined by legislation of the Republic of Belarus, as well as for satisfying informational needs of citizens and legal entities.

2. Departmental informational resources shall be formed and used by state bodies (organizations) that own these informational resources.

Article 35. Territorial informational resources

1. Territorial informational resources shall contain information needed for informational provision of work of local executive and administrative bodies in connection with their competences defined by the legislation of the Republic of Belarus, and in order to satisfy informational needs of citizens and legal entities.

2. Territorial informational resources shall be formed and used by local executive and administrative bodies that own these informational resources.

CHAPTER 6
INFORMATIZATION, INFORMATIONAL TECHNOLOGIES, INFORMATIONAL SYSTEMS AND NETWORKS

Article 36. Types of informational networks. Creation and operation of informational networks

1. Informational systems shall be divided into state and non-governmental, publicly available and with limited access.
2. State informational systems shall be created in order to render social services, optimize work of state bodies (organizations) and to provide exchange between them.

3. Non-governmental informational systems shall be created by citizens and legal entities in order to satisfy informational needs and render informational services.

4. State informational systems shall be created in accordance with the order and norms specified by the legislation of the Republic of Belarus on Delivery of Goods and Contract Services for State Purposes.

5. Operation of state informational systems shall not be allowed without implementation of preventive steps for protection of information, legalization of rights to use informational systems components protected by legislation of the Republic of Belarus on intellectual property.

6. Access to a non-governmental informational system and order of operating it shall be defined by the owner of information or his authorized representative.
7. Provision for integrity and safety of information contained within state informational systems shall be done by means of creation and observance of requirements for protection of information.

8. Order of creation and operation of non-governmental informational systems shall be defined by their owners on account of requirements established by legislative acts of the Republic of Belarus.

9. Informational systems that contain state informational resources and non-governmental informational resources provided to form state informational resources shall be considered property of the Republic of Belarus.

Article 37. State registration of informational systems

1. State registration of informational systems shall be done for the purpose of creating a joint system of informational systems record, for ensuring their security, provision for work of state bodies (organizations) and exchange of information between informational systems.

2. State registration of informational systems shall be done by the Ministry of Communication and Informatization of the Republic of Belarus by means of adding informational systems into a State register of informational systems.

Order of forming and operating the State register of informational systems shall be defined by the Council of Ministers of the Republic of Belarus.

3. State and publicly available informational systems shall be a sudject to compulsory state registration.

Registration of non-governmental informational systems shall be done on a voluntary basis.

4. Informational systems with limited access shall be registered according to the rules specified by State Center on Information Security of/under the President of the Republic of Belarus.

Informational systems containing state secrets shall be registered in accordance with the order specified by Committee on State Security (KGB) of the Republic of Belarus.

Article 38. Creation of informational technologies, informational systems and networks.

1. The right to create informational technologies, informational systems and networks shall belong to state bodies (organizations), citizens and legal entities.

2. Informational systems containing data about citizens and legal entities shall be created by state bodies (organizations), competences of which inclide creation and operation of informational networks containing data about citizens and legal entities, as well as by legal entities to whom this right has been granted by legislation of the Republic of Belarus.

3. Creation of international informational networks on the territory of the Republic of Belarus shall be done in compliance with the legislation of the Republic of Belarus.

4. State bodies (organizations), citizens and legal entities shall have the right to create local, intersectoral and international informational networks and (or) enter international networks with own informational systems.

Order of inclusion into informational networks mentioned by part one of the present pt., as well as rules of exchange of information within informational networks, shall be defined by their owners or authorized representatives and in accordance with the legislation of the Republic of Belarus.

5. Activities on designing, planning, generating state informational systems and ensuring their functioning, as well as services on formation and usage of state informational resources, including creation of databases, their operation and provision of information, shall be done by citizens and legal entities on the basis of corresponding agreements, and according to norms established by legislation of the Republic of Belarus.

Article 39. Use of informational systems

1. Use of informational systems on the territory of the Republic of Belarus shall be done on the basis of Legislation of the Republic of Belarus on Telecommunications, the present Law and other legislative acts of the Republic of Belarus.

2. Legislation of the Republic of Belarus may presuppose obligatory identification of people taking part in the exchange of information using informational networks. Recepient of an e-message on the territory of the Republic of Belarus shall have the right to conduct verification in order to determine that the message comes from a sender, and in cases presupposed by legislation of the Republic of Belarus or an agreement between parties – must conduct such a verification test.

3. International exchange of information through informational networks shall be done freely and without limitations in case of observance on the territory of the Republic of Belarus of requirements of Legislation of the Republic of Belarus on Provision of Information and Protection of Intellectual Property.

Limitations and (or) suspension of international exchange of information through informational networks can be done exclusively within the order and on the basis of the present Law and other legislative acts of the Republic of Belarus.

CHAPTER 7
LEGAL STATUS OF SUBJECTS OF INFORMATIONAL RELATIONS

Article 40. Owner of information

1. Should other not be specified by the present Law and other legislative acts of the Republic of Belarus, the owner of information shall have a right to:

use and distibute information at own discretion;

allow or limit access to information, define order and terms of such access;

transfer the right to use information in accordance with the legislation of the Republic of Belarus or by an agreement;

protect, within a legislatively established order, his rights in case of illegal receipt or use of information by third parties;

conduct measures of protection of information within the order and conditions specified by the present Law and other legislative acts of the Republic of Belarus.

Owner of information shall as well excercise other rights in compliance with the present Law and other legislative acts of the Republic of Belarus.

2. Rights of the owner of information contained within a database, including an informational system database, shall be subject to protection despite author's right and other entitlements for a database.

3. When excercizing his rights, the owner of information shall:

observe rights and legal interests of other persons;

take measures for protection of information if such a responsibility is presupposed by legislation of the Republic of Belarus;

provide infromation that is considered by legislation of the Republic of Belarus as obligatory for provision;

limit and (or) ban access to information, if such a responsibility is set by legislative acts of the Republic of Belarus.

Owner of information shall fulfill other responsibilities in accordance with the present Law and other legislative acts of the Republic of Belarus.

Article 41. User of information

1. User of information shall be liable, within the order and conditions set by the present Law and other legislative acts of the Republic of Belarus, to:

excercize his right to information;

get acquainted with own personal data;

use informational technologies, informational systems and networks.

2. User of information shall excercise other rights in accordance with the present Law and other legislative acts of the Republic of Belarus.

3. When excercizing his rights, the user of information shall be liable to:

not abuse the right to information;

observe rights of other persons while using informational technologies, systems and networks.

User of information shall fulfill other responsibilities in accordance with the present Law and other legislative acts of the Republic of Belarus.

Article 42. Owner of program and technical means, informational systems and networks.

1. Owner of program and technical means used when processing informational resources, shall be considered owner of a corresponding informational system, if he is the owner of information and uses it legitimately.

Order of operating an informational system in cases if different persons are owners of program and technical means and owners of informational systems shall be defined by an agreement between these parties.

2. Right to information that is a part of informational systems, shall be defined by an agreement between the owners of information and owners of informational systems.

3. Competences of the owner of a state informational system shall be fulfilled by the client of a state contract on contract works to fulfill state needs on generation of such information system, should other not be specified by a decision of its creation.

4. Owner of an informational system shall, should other not be specified by the owner of information, have the rightto ban or limit relocation and distribution of information, including distribution of copies and provision into temporary usage material carriers that contain such copies.

Article 43. Owner of program and technical means of informational systems and networks

1. Owner of program and technical means, informational systems and networks shall define conditions of their usage observing sole rights to intellectual property.

2. Owner of program and technical means, informational systems and networks shall conduct measures for protection of information on the basis of and under conditions set by the present Law and other legislative acts of the Republic of Belarus.

Article 44. Informational intermediary

Informational intermediary shall ensure rendering of informational services to the owner and user of information upon their requests or according to provisions of an agreement between an informational intermediary and owner or user of information or their authorized persons.

Article 45. Operator of an informational system

Operator of an informational system shall operate state and non-governmental informational systems according to an agreement with their owners or authorized persons or by the owner himself who in this case shall be considered an operator of an informational system.

Article 46. Relations between the owner of information and informational technologies, informational intermediary and owner of program and technical means, informational systems and networks

1. Owner of information or his authorized representative shall define order of processing and rules of using information within informational systems and networks.

2. Informational intermediary shall be liable to provide completeness, exactness and quality of information and informational technologies defined by an agreement on informational services.

3. It shall be forbidden for an informational intermediary to forward information to third parties, apart from cases presupposed by the agreement with the owner of information.

4. Rights of the owner of information and informational technologies do not cover program and technical means, informational systems and networks that belong to an owner and are the instrument to process information.

Article 47. Responsibilities of subjects of informational relations.

1. Owner of information or his authorized representative shall bear responsibility for provision of deliberately false or incomplete information, information presented with violations of timeframes of its provision; shall be liable to compensate damage caused in connection with the latter to the user in accordance with norms and order set by the legislation of the Republic of Belarus.

2. Owner of program and technical means, informational systems and networks shall bear responsibility for violating exclusive rights on results of intellectual activities.

3. Subjects of informational relations shall bear responsibilities presupposed by legislation of the Republic of Belarus for the content of information distributed from their names, including distribution throught informational systems and networks.

4. Operators of state informational systems or informational systems containing information of limited access, shall be responsible for ensuring integrity and safety of information within informational systems and must take measures to prevent disclosure, loss or corruption of information, and if needed – measures to restoration of lost information.

5. Shoul provision of certain information be limited and (or) denied by legislation of the Republic of Belarus, informational intermediary shall not bear responsibility for its distribution (apart from cases when his actions reveal signs of crime or administrative delinquency) on the account that his services:

are limited to transmission of information provided to him by other party, and information mentioned is transmitted without major changes and (or) corrections;

are defined as storage of information and provision of access to information on the basis that the informational intermediary could not know about unlawfullness of provision of information.

6. Exemption of an informational intermediary from bearing responsibilities mentioned in pt.5 of the present Article do not release him from obligations to fulfill in due timing the order of authorized state bodies (organizations) on cessation of a violation (stopping of distribution, access to information or removal of information).

CHAPTER 8
PROTECTION OF INFORMATION

Article 48. Aims of protection of information

Aims of protection of information shall be:

to prevent illegal access, deletion, freeze, copying, distribution and (or) provision of information, as well as other unlawful actions towards information;

to prevent drain of information under protection, illegal (unsanctioned) influences upon information under protection;

to protect rights of citizends to protection of information containing privacy secrets and non-disclosure of personal data contained within informational systems;

to ensure rights of parties of informational relations when designing, producing and using informational technologies, informational systems and networks, means of their support.

Article 49. Basic requirements for protection of information

1. Any type of information, misuse of which may cause damage to its owner, user or other person shall be liable to protection.

2. Requirements for protection of publicly available information shall be set exclusively for the purpose of reaching goals of protection of information from illegal access, deletion, modification, freeze, copying, provision, distribution or other illegal actions towards such information.

3. Requirements for protection of information within state informational systems, as well as within systems containing information of limited and (or) denied provision and (or) distribution, including methods and ways of such protection, shall be defined by legislation of the Republic of Belarus.

4. Requirements for protection of information contained within state informational systems shall be set by owners of informational networks, Committee on State Security (KGB) of the Republic of Belarus and State Center on Information Security of/under the President of the Republic of Belarus within the limits of their competences.

5. Information of limited and (or) denied provision, as well as information contained in state infromational systems, shall be processed in informational systems with the use a complex system of protection of information certified in accordance with provisions specified by the Council of Ministers of the Republic of Belarus.

6. Ensurance of integrity and security of information contained in state informational systems shall be done by setting and observing unified set of requirements for protection of information from illegal (unsanctioned) access and (or) modification, including cases of access to informational networks.

7. In order to create a complex system of protection of information, protective measures shall be certifed by the National system of correspondence confirmation of the Republic of Belarus or verified by a positive expert conclusion in accordance with the results of a state expertise, procedures of which shall be defined by the Council of Ministers of the Republic of Belarus.

8. Citizens and legal entities that specify on designing tools for protection of information and implementation of measures for informational protection, shall conduct their work within this sphere of activities according to permissions issued by Committee on State Security (KGB) of the Republic of Belarus, State Center on Information Security of/under the President of the Republic of Belarus and within the order defined by the President of the Republic of Belarus.

9. Order of protection of information shall be regulated by the present Law and other legislative acts of the Republic of Belarus.

Article 50. Measures for protection of information and informational systems.

1. Legal measures for information protection shall include agreements between the owner and user of information that specify conditions of access to certain information and responsibility for violating provisions of access and usage of information.

2. Organizational methods of information protection shall include ensurance of rules of special access to territories (areas) where access to information (material carriers of information) can take place, as well as delimination of acces to information according to a circle of people and character of information.

3. Technical (program and technical) means of protection of information and informational systems shall include means of physical protection of informational systems, using tools of information protection,including cryptography, as well as systems of access control and registration of cases of access to information.

4. State bodies (organizations) and legal entities that process information of limited and (or) denied provision and (or) distribution, shall create special departments or determine functionaries responsible for protection of information.

Article 51. Organizing protection of information

1. Protection of information shall be organized:
towards publicly available information – by the distributor of such information;
towards information of legisltatively limited and (or) denied provision and (or) distribution – by the owner or operator of the informational system that contains such information, or by the owner of information that is not contained within any informational systems;
towards information, spread and (or) distribution of which is limited by its owner – by the owner of information.

2. Parties of informational relations mentioned in pt.1 of the present Article, shall take measures of information protection that:

prevent illegal (unsanctioned) acces to information;
ensure integrity (invariability) and safety of information;
timely disclose facts of illegal (unsanctioned) acces to information if such illegal (unsanctioned) acces to information has failed to be prevented;

lower the level of potentially harmful consequences of violation of order of acess to information;
debar influences upon tools of operating and transmitting information;
provide an opportunity to restore information modified and (or) deleted because of an illegal (unsanctioned) acces to it.

Article 52. Rights and responsibilities of parties of informational relations in connection with information protecion

1. Owner of information, program and technical means, informational systems and networks or his authorized representatives shall have the right to:
prohibit or suspend processing of information in case of violation of requirements of informational protection;
appeal to state bodies (organizations) defined by the President of the Republic of Belarus for valuation of correctness of accomplishment of norms and requirements for protection of his information within the informational systems.
2. Owner of information, program and technical means, informational systems and networks or his authorized representatives shall have the right to appeal to state bodies (organizations) defined by legislation of the Republic of Belarus, for an analysis of sufficiency of measures of protection of his resources and systems, and for consultations.

Proprietor of informational systems and networks shall notify their owner as well as owner of information about all the facts of violation of information protection order.

3. Owner of information, operator of informational system shall be liable, in cases presupposed by legislation, to:

ensure the level of protection of information according to legislation of the Republic of Belarus, as well as conduct permanent control of compliance with requirements for information protection;

establish a procedure of provision of information to a user, together with defining measures necessary for ensuring conditions for users' access to information;

prevent illegal (unsanctioned) acces to information and (or) transmission of it to persons unauthorized for access to information;

in due timing detect facts of illegal (unsanctioned) acces to information;

prevent possibility of adverse consequences of violation of order of acces to information;

debar influence upon technical means of processing information that results in infracting their functioning;

provide opportunities for immediate recovery of information modified or destroyed by an illegal (unsanctioned) acces to information.

Article 53. Protection of personal data

1. Measures for protection of personal data from disclosure shall be taken from the moment personal data is presented by a person to whom this information relates to another person or when provision of personal data is done on the basis of legislation of the Republic of Belarus.

Measures specified in the first part of the present pt. shall be taken prior to destruction or depersonalization of personal data, or prior to receiving an agreement from a person this information relates to for disclosure of such information.

Consequent transfer of personal data shall be allowed only on the basis of consent of the person this information relates to, or according to the legislation of the Republic of Belarus.

2. If personal data has been received with violations of requirements mentionend by pt.1 of the present Article, a party that has obtained such information shall not be entitled to use it and is bearing responsibility in accordance with the legislation of the Republic of Belarus.

CHAPTER 9
INTERNATIONAL RELATIONS

Article 54. International cooperation

Parties of informational relationships may take part in implementation of international programs and projects, sign agreements with foreign and international organizations, enter foreign and international scientific communities, association and unions in accordance with the legislation of the Republic of Belarus.

Article 55. Intermational treaties

Should an international treaty specify other norms than those presupposed by the present Law, norms of an international treaty shall apply.

CHAPTER 10
FINAL PROVISIONS

Article 56. Amenabilities for violating provisions of the present Law

Violation of provisions of the present Law shall lead into disciplinary, civil, administrative or criminal responsibilities in accordance with legislative acts of the Republic of Belarus.

Article 57. Effect of the present Law

The present Law shall enter into effect six months after its official publication, apart from pt.2 of Article 58 that shall enure after official publication of the present Law.

Article 58. Measures of conformation of legislation of the Republic of Belarus with the present Law

1. Nullify the powers of:
The Law of the Republic of Belarus "On Informatization" from September 6, 1995 (*Herald of the Council of Ministers of the Republic of Belarus*, 1995, #33, pg. 428);
Article 14 of the Law of the Republic of Belarus " On Revision and Addendum to some Legislative Acts of the Republic of Belarus on Questions of Technical Normalization, Standardization and Valuation of Correspondence to Provisions of Technical Legal Acts in the Sphere of Technical Normalization and Standardization" from July 20, 2006
(National register of legal acts of the Republic of Belarus.

2. The Council of Ministers of the Republic of Belarus shall, in the course of six months after the official publication of the present Law:

conform decisions of the Government of the Republic of Belarus with the present Law;

provide for revision and nullification of governmental bodies of state control subordinated to the Council of Ministers of the Republic of Belarus, their legal and normative acts that contradict the present Law;

take other measures necessary for implementation of the preset Law.

President of the Republic of Belarus