



GYLA held presentation of two researches about personal data protection

On June 3, 2013, in the Hotel “Tbilisi Marriot”, GYLA held presentation of the researches: **“Freedom of Information and Protection of Personal Data”** (analysis of court practice) and **“Personal Data Protection Inspector”** (Georgian Practice and International Experience). As for analysis of court practice GYLA’s researches revealed that:

■ In the period of May 1, 2012 until November 1, 2013 common courts reviewed 17 cases related to personal data protection;

■ While discussing personal data protection legislation courts prioritized identification criteria and refrained to satisfy the request on disclosure of public information on the basis of formal definition of the concept of personal data;

■ Courts considered confidential information about finances of civil servants and other individuals (save for high public officials), in particular their bonuses and salaries, even when they were financed from the state budget;

As for the research related to personal data protection inspector:

■ Georgian personal data protection legislation is not comprehensive and in certain cases requires additional specification in terms of assignation of personal data protection inspector, his/her dismissal, activity regulation rules or organizational-legislative aspect;

■ As opposed to international experience, Georgia has no rules and instructions oriented on different sectors (for example labor and health);

■ According to personal data protection legislation of Georgia, certain fields are left beyond regulation (for example data processing for the state and public purposes),

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while according to international experience it is desirable to apply personal data protection legislation on all fields;

Georgian legislation does not envisage public interest test, therefore in case of high public interest, personal data protection inspector lacks the opportunity to examine the issue of disclosing personal data of the concrete individual with respect to the conflict between the state and public interests. International practice, though, indicates about necessity of such test.

GYLA considers necessary to revise applicable legislation in terms of personal data protection, as well as to eliminate existing gaps and provide extra guarantees for independence of the personal data protection inspector.

It is vital to work out sector oriented regulations determining special rules, which will ensure regulation of personal data according to the specifics of each field.

Furthermore, it is necessary to integrate proportionality test in Georgian legislation for considering right to protection of personal data in correlation with other fundamental human rights and public interests.

GYLA remains hopeful that proposed researches will contribute to improvement of personal data protection issues and establishment of better practice.