



## NGOs respond to Amendments to the Law on Illegal Surveillance

The campaign "It Affects You Too" welcomes the decision of the Parliament of Georgia regarding the adoption of amendments to the current law on illegal surveillance. We believe that constitutional guarantees of personal privacy will be significantly improved through adoption of these amendments. The current legislation will move toward best practices of European countries and standards of the Jurisprudence of the European Court of Human Rights.

Under the new statutory regulations:

- Surveillance and eavesdropping will be conducted only against offenders and those who receive or provide information about a crime; against persons committing intentional or especially grave crimes; also, against less serious offenders whose activities are directed against human life and health or represent an economic crime;
- The duration of surveillance and eavesdropping will be limited and it will not last for more than 6 months (1 +2 +3);
- The targeted person should be notified in writing on the undercover investigation conducted against him/her, on the material obtained as a result of the investigation, as well as on the destruction of these materials;
- Surveillance and eavesdropping will be conducted in compliance with legislation under the supervision of the data protection officer, who will also have access to data on the state security, defense, intelligence and counter-intelligence activities, which do not represent a state secret;

- Two candidates will be nominated by the Prime Minister and the Parliament will

appoint a data protection officer. The Prime Minister should select not more than five and not less than two candidates nominated by the Commission composed of all three branches of the government, public defender and civil society;

- The data protection officer has access to the materials on criminal and operational investigation activities, including the information kept secret by the government.

Uncontrolled surveillance conducted by law enforcement agencies has been a critical problem for the last few years in Georgia. Despite the changes in government and positive steps in some areas, the issues on the direct and unlimited access of law enforcement agencies to communications data stored within an operator's network still remains unregulated. As stated in the transitional provision of the bill, the Parliament of Georgia should make a decision on this issue before November 1 of the current year. Law enforcement agencies also maintain the right to copy real-time data (for example, the information on the caller, duration of a telephone call and other data, which is not related to the content of the conversation) until November 1, 2014. It should be noted that based on a categorical demand of law enforcement bodies, the issue of setting limitations for copying real-time data was amended and removed during the third hearing of the law. Non-governmental organizations that are involved in the Campaign "It Affects You Too" demand to resolve this issue by November 1, 2014.

On August 1 of the current year, the Legal Affairs Committee of the Parliament initiated the creation of an 18-member working group, which is tasked with setting rules for obtaining information on communications conducted through technical means of providing real-time data, the introduction of an effective external control mechanism for obtaining the above mentioned information, the adoption of relevant legal regulations and resolution of the issue related to copying real-time data. The working group will be composed of the members of parliament, representatives of the government, including law enforcement agencies, data protection officer, public defender, Chairman of the Investigative Panel of the Tbilisi Court of Appeal, and the non-governmental organizations - Transparency International Georgia, Georgian Young Lawyers' Association and the authors of the bill - Lasha Tughushi, Zviad Qoridze, Lika Sajaia.

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



**" Non-governmental organizations involved in the campaign "It Affects You Too" firmly maintain their position that the delivery of real-time data should be controlled by cellular communication operators.** This was included in the initial version of the bill, which was based on the conclusions of international experts involved in the drafting process, as well as on the best international practices. We hope that law enforcement agencies will consider the recommendations provided by NGOs involved in the campaign "It Affects You Too", as well as by international experts and that the Parliament of Georgia will end a vicious practice of illegal surveillance.