



საქართველოს
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იურისტთა
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საიას შეფასება ბოლო დროს გავრცელებულ უკანონო
მოსმენებთან დაკავშირებით

GYLA's assessment of recent illegal eavesdropping

The Georgian Young Lawyers' Association responds to the information spread by the mass media[1] on September 13, 2021, and in the previous days, according to which the systematic and large-scale facts of alleged illegal covert eavesdropping and surveillance by the State Security Service are confirmed. GYLA condemns the gross violations of interference with the privacy of individuals and calls on the Prosecution Service of Georgia to conduct a timely, impartial and effective investigation.

According to mass media reports, the recordings published on September 13 mainly contain data on the illegal recording and storage of private communications of the clergy. Recently, there have been frequent reports of illicit eavesdropping and surveillance[2], although the scale of the data released on September 13 indicates the total control of citizens by the State Security Service. In addition, representatives of non-governmental organisations[3], the Public Defender[4] and the diplomatic corps, [5] and confidential conversations between a lawyer and a client, [6] are reportedly being eavesdropped on along with the clergy.

A person's private life, personal space and private communication are protected by

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the Constitution of Georgia and several international acts.[7] The Code of Criminal Procedure establishes special control over interference with private life.[8] There are frequent cases when the parishioners talk to the pastor on the phone about issues that belong to the sacrament of confession. Uncontrolled and illegal eavesdropping on the clergy threatens other aspects of people's privacy and the sacrament of confession, which is protected by law even during the investigation.[9] Alleged covert eavesdropping/surveillance also violates another fundamental criminal principle - the confidential relationship between a lawyer and client,[10] without which it is impossible to gain the client's trust and adequately exercise their procedural rights.

NGOs, including GYLA, have been pointing[11] to the indefinite and uncontrollable powers of the State Security Service for years. Existing legislation does not protect a person's privacy from unlawful interference. Covert eavesdropping and surveillance affect the freedom of individuals. For years, the Constitutional Court has been considering the №1231 lawsuit[12] of June 1, 2017, regarding the constitutionality of several norms related to covert investigative activities, computer data, data banking, and surveillance. As the Constitutional Court is an essential mechanism for protecting human rights, it is vital that its resolution must be timely and effective. Given the above, we believe that the Constitutional Court should timely assess the compatibility of the challenged norms with the Constitution of Georgia, in turn, to facilitate the refinement of regulation of covert investigative actions and to create strong safeguards of human rights protection in the legislation.

We believe that the several uninvestigated cases of interference with the privacy of individuals in the past give more incite and scale to the unlawful interference with the privacy of others. In this regard, given the ineffective work of investigative bodies over the years, the importance and scale of the issue, the Parliament of Georgia, as the oversight body, should examine the activities of the State Security Service.

We positively assess the decision of some media outlets to maximally protect the right to privacy of individuals in the process of disseminating existing recordings. We also would like to express solidarity with the persons who appear in the recordings and, if necessary, provide legal assistance.

In addition, GYLA calls:

To the Prosecution Service of Georgia:

- Conduct a timely, impartial, effective investigation to identify the perpetrators.
- Due to the high public interest, to permanently provide information to the public regarding the progress of the investigation.

To the Parliament of Georgia:

- Exercise parliamentary oversight and set up a timely commission of inquiry to investigate allegations of mass illegal eavesdropping by the State Security Service and their impact on human rights abuses.

To the Constitutional Court of Georgia:

- Provide timely resolution of the issue of compliance of the legislation regulating the covert investigative actions with the Constitution.

[1] The footage of Pirveli TV - "Scandal: Special operation against the Patriarchate – State Security Service monitors the priests and collects compromising information about them," is available: <https://bit.ly/39baQNC> .

[2] The footage of Pirveli TV " "They even have been surveilling the teachers, and they were finding out who you have an affair with so that they could blackmail you later", is available at: <https://bit.ly/3kcAibZ>.

[3] Statement by the Social Justice Center - "The Social Justice Center responds to allegations of illegal activities of State Security service" – available at: <https://bit.ly/3AfTeMp> .

[4] Pirveli TV Diana Trapaidze's Daily News - The Public Defender of Georgia speaks about the recordings released on September 13, available at: <https://bit.ly/3AigwkO> .

[5] Mtavari Channel News Release on Mtavari news at 3 - "International Scandal - State Security Service eavesdropped on Diplomats too" - <https://bit.ly/3EINbZe>

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[6] Mtavari Channel News Release - the director of the Mtavari channel talks about the violation on his communication as a lawyer and the client - is available:

<https://bit.ly/39aHQpd> .

[7] Constitution of Georgia, Article 15. Convention for the Protection of Human Rights and Fundamental Freedoms, Article (8).

[8] Code of Criminal Procedure, Articles 112, 143⁷ (1).

[9] Ibid., Article 50 (1c), Article 143⁷ (2).

[10] Law of Georgia on Lawyers, Articles 7, 38 (6); Criminal Procedure Code, Article 38 (5).

[11] NGO Call - "Civil Society Organisations: Government Uses State Security Service as Mechanism of Total Control", Available at: <https://bit.ly/2YSDfpO>

[12] Constitutional claim N1231 of June 1, 2017 - Available at:
<https://constcourt.ge/ka/judicial-acts?legal=1962>