



## Ensure the Inviolability of Personal life in the Conduct of Police Preventive Activities

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### ABSTRACT

The paper addresses the basic rights and freedoms guaranteed by the Constitution of Georgia, in particular, issues related to personal data. The development of information technology has had a significant impact on the dangers of illegal processing of personal data. The European Court of Human Rights considers the inviolability of private life as a precondition for human autonomy, independent development and protection of human dignity. According to the norms of international law, the right to respect for private life is recognized as one of the most important and fundamental rights, the protection of which is indicated by the legislation of Georgia.

The aim of the paper is to analyze the legislation and practice of police law in the field of protection of the right to privacy and to offer relevant recommendations, taking into account the standards set by European and national courts. Human rights legislation must ensure the protection of all human beings against the abuse of state power. Interference with rights must be based on the principle of proportionality. The use of policing should not pose an excessive threat of fundamental human rights violations. Interference with a particular right must be done under principle of proportionality to achieve a certain public good. In clarifying the issue of alleged violation of the right, special attention should be paid to the severity and probability of the expected threat to legal good.

The Constitution of Georgia, EU and Council of Europe data protection standards, national legislation, as well as the case law of the European Court of Human Rights and the National Constitutional Court are analyzed around the topic. In addition, the reports of the State Inspector, the Public Defender and the relevant scientific literature are used to study the above issues.

**KEYWORDS:** Right to privacy, Police preventive measures, Principle of proportionality

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### INTRODUCTION

The main function of a police officer is to protect public safety, law and order. At this time, it has a direct bearing on the fundamental rights and freedoms of persons guaranteed by the Constitution of Georgia. The Constitution of Georgia recognizes the human being, his dignity and freedom as the main value and gives him the eternal and supreme importance.<sup>1</sup> The police, like the entire executive branch, are bound by

constitutional human rights and freedoms.<sup>2</sup> The basic constitutional principles are the legal guarantee of the protection of human dignity. Human dignity and personal freedom are realized in their adequate protection and full provision. Therefore, disproportionate, excessive interference of the state with these rights violates human dignity. In general, fundamental rights oblige the state to ensure the possibility of full self-realization of the individual freedom of every human being, which, first of all, requires the state to be careful

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1 Turava, P. (Ed.), 2013. Commentary on the Constitution of Georgia. Publication of the Regional Center for Research and Promotion of Constitutionalism, Tbilisi. p. 11.

2 Korkelia, K. (Ed.), 2014. "Human Rights and Legal Reform in Georgia", Collection of Articles, p. 120-121.

and moderate in determining the scope of regulation of interference with the right. In this regard, the most important guarantee is the norms-principles ensuring a democratic and legal state, which determine the content of the government's relationship with the people.<sup>3</sup> Article 1 of the European Convention on Human Rights stipulates that states must ensure the protection of the rights and freedoms set forth in the Convention. Based on this wording, Article 1 of the European Convention on Human Rights has been interpreted in such a way that it imposes not only a negative but also a positive obligation on the state. According to this article, the state is obliged not only to refrain from violating the rights and freedoms provided by the Convention and its protocols (negative obligation), but also to ensure their protection, including in case of violation by third parties (individuals and legal entities) (positive obligation). If the rights enshrined in the European Convention have been violated by a natural or legal person, the state is obliged to ensure effective protection of violated rights. Otherwise, the state itself will be held responsible for failing to ensure the protection of the rights under the Convention.<sup>4</sup>

A police action that leads to a restriction of human rights requires legal justification. In carrying out one of the main functions of the police, which is to protect public safety, it often has to restrict the rights of specific individuals. However, public safety is ultimately nothing more than taking care of the rights of each member of society in the most balanced way, at the same time taking into account the interests of each. It should be noted that the Law of Georgia on Police establishes important principles as criteria for verifying the legality of a police measure. The law recognizes the principles of protection and respect for fundamental human rights and freedoms.<sup>5</sup> A police measure aimed at protecting public safety and law and order must not infringe on human dignity and honor, must not violate human life, physical inviolability, property and other fundamental rights and freedoms. Benefits of police measure – public security and order cannot justify Torture, Inhuman or Degrading Treatment or Punishment. The main institutions of the Law of Georgia on Police, the basic principles, as directly applicable norms, po-

lice measures and legal forms of its implementation are the legal mechanisms to achieve the above goal.<sup>6</sup> The Law of Georgia on Police imposes an obligation on the police officer to observe the principle of proportionality, which ensures the smooth performance of the task of protecting public safety and at the same time protects basic human rights and freedoms from unjustified restrictions. The principle of proportionality has strictly defined constituent elements. These elements are: legitimate purpose, usefulness, necessity and proportionality. It is necessary to observe all four elements of the principle of proportionality in order for a restrictive action by a police officer to be proportionate. If at least one of the elements is violated, it does not matter if the other elements are protected, the action of the police officer is not proportionate.<sup>7</sup>

## THE NEED FOR REGULATION

Despite the above guarantees, the law governing the police law leaves room for regulating certain issues. It is implied that the existing legislation in the field of human rights must ensure the protection of each person from the abuse of state power. If we judge logically, it turns out that the violation of human rights is a category of violation that can be committed only by a person who has the right to act on behalf of the state. A criminal or terrorist has no such right. The police are committed to enforcing the law, including human rights law (which the state is responsible for enforcing).<sup>8</sup>

In order to protect public safety and law and order, the Law of Georgia on Police provides for the possibility of using a number of police measures, including preventive measures. According to the law, such measures include: surveying a person, identifying a person, superficial inspection and inspection, use of automated photographic equipment (radar) and video equipment, etc. Within the framework of police preventive measures, cases of personal data processing of persons in various forms are frequent, including facts of video recording by mobile phone, identification of a person with a photograph and verification in the database.<sup>9</sup> The Ministry of Internal Affairs does not have the rules and

3 Constitutional Court of Georgia, Case №1/3/407 (26.12.2007) Georgian Young Lawyers Association and Citizen of Georgia Ekaterine Lomtadze v. Parliament of Georgia, II-3.

4 Bokhashvili. B, Korkelia. K, 2017. The right to respect for private and family life and the obligations of the state Review of the case law of the European Court of Human Rights and the case law of the Constitutional Court of Georgia, p. 7.

5 Law of Georgia on Police, 04.10.2013. Article 9

6 Korkelia, K. (Ed.), 2014. "Human Rights and Legal Reform in Georgia", Collection of Articles, p. 121.

7 Law of Georgia on Police, 04.10.2013. Article 12.

8 Taylor, m. 2002, In the Activities of the Human Rights Police, Strasbourg, p. 21-22

9 Personal Data Protection Inspector of Georgia. Report on the status of personal data protection and the activities of the inspector, 2018, p.66.

detailed instructions for the implementation of these measures, due to which there is a high risk of improper processing of personal data of the person subject to the preventive measure and violation of the law.

Proper information of the data subject within the framework of the police preventive measure is also an important issue. Within the framework of the preventive measure (survey of a person) defined by Article 19 of the Law of Georgia on Police, a police officer is entitled to obtain data directly from a data subject (natural person). However, according to the law, the provision of data by the data subject is voluntary.<sup>10</sup> In this process, in order to achieve the goals of the preventive measure, as well as to ensure the legitimacy of data processing, it is important to properly explain to the citizen the purpose of data collection, whether the data is mandatory and what legal consequences may result from non-delivery of data. Awareness allows the citizen to protect his/her rights and not feel that his/her data is being processed illegally. According to the report of the Personal Data Protection Inspector, the problem of accurate confirmation of the proper information of the data subject was also revealed in practice.<sup>11</sup>

The Public Defender of Georgia's 2018 Report on the Situation of Human Rights and Freedoms in Georgia states that the Public Defender has been recommending the Ministry of Internal Affairs for years to regulate the obligation of police officers to record videos in relations with citizens. Also, in addition to patrol inspectors, they also have contact with citizens, as well as employees of the Central Criminal Police Department and territorial bodies. Consequently, apart from the fact that they do not have the obligation to videotape their relations with the citizens and it depends on the opinion of the said police officer, the rules and terms of storing the videotaped material are not defined in relation to them.<sup>12</sup>

The Personal Data Protection Inspector in his 2018 activity report also states that "the processing of personal data by law enforcement agencies is often an interference with Article 15 of the Constitution of Georgia and the right to privacy guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The law, to have a legitimate aim and to be a necessary measure in a democratic society. It is important that law enforcement collects, stores and otherwise uses

data in accordance with lawful and clear objectives and adheres to principles such as fairness and proportionality. In addition, it is essential to ensure the accuracy, authenticity and transparency of general data processing processes. Enforcement of these requirements by law enforcement agencies is of particular importance, as, unlike other public institutions, they have the ability to obtain and process data from both open and secret sources within the scope of their statutory powers, which in turn increases the risk of inappropriate and excessive data processing.<sup>13</sup>

## STANDARD OF REGULATION

Article 13 of the Constitution of Georgia strengthens the right to physical inviolability of a person, his personal freedom, it is one of the main pillars of fundamental rights and according to the Constitution, is subject to special protection.<sup>14</sup> In the case of the Public Defender of Georgia v. Parliament of Georgia, the Constitutional Court noted that "human freedom is such a weighty fundamental right that interference with it by the state authorities should be considered an ultima ratio."<sup>15</sup>

Neither the text of Article 8 of the European Convention on Human Rights nor the case law of the European Court of Human Rights exhaustively defines the content of private life. In the case of Costello-Roberts v. The United Kingdom, the European Court of Human Rights stated that personal life is a broad concept which "is not subject to exhaustive definition."<sup>16</sup> In the case of Nimitz v. Germany, the European Court stated that: "The Court does not consider it possible or necessary to exhaustively define the concept of 'personal life'. However, it would be very limited to confine this concept to the "inner circle" in which a person can live his personal life and exclude from it the outside world, which is not included in this circle."<sup>17</sup> The Court also notes in the case of Friedley v. Austria: Respect for private life also includes, in part, the right to establish and develop relations with other people and the

10 Law of Georgia on Police, 04.10.2013. Article 19.

11 Personal Data Protection Inspector of Georgia. Report on the status of personal data protection and the activities of the inspector, 2018, p.67.

12 Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2018, p. 64.

13 Personal Data Protection Inspector of Georgia. Report on the status of personal data protection and the activities of the inspector, 2018, p.61.

14 Constitution of Georgia. 24. 08. 1995. Article 13;

15 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-1.

16 European Court of Human Rights (ECHR). Case №13134/87, (25.03.1993). Costello-Roberts v. the United Kingdom. Paragraph 36.

17 European Court of Human Rights (ECHR). Case №13710/88, (16.12.1992). Niemietz v. Germany. Paragraph 29.

outside world. "Friedley v. Austria."<sup>18</sup> "Respect for privacy should also include, to some extent, the right to establish and develop relationships with other people."<sup>19</sup>

The Constitutional Court, in the case of the Georgian Young Lawyers' Association and Ekaterine Lomtadze, a citizen of Georgia, v. With the right to inviolability of secrets. What constitutes the essence of the right to inviolability of private life, each of them, at the same time, carries an independent content. In general, personal life refers to the private sphere of an individual's life and development. The right to privacy, on the one hand, means the ability of an individual, personally, to create and develop his or her own private life at his or her own discretion, and, on the other hand, to be protected from state interference in his or her private sphere. Accordingly, the right to privacy ensures the free development of the individual, as it allows him/her to exchange information, opinions and impressions in a private environment free from public interference and attention.<sup>20</sup>

As mentioned above, interference with the right to privacy must be accompanied by the principle of proportionality. The use of policing should not pose an excessive threat of fundamental human rights violations. Interference with a particular right is done to achieve a certain public good. In clarifying the issue of alleged violation of the right based on the principle of proportionality, special attention is paid to the severity of the expected threat to legal good. This legal good is, on the one hand, a specific right which needs to be restricted and, on the other hand, a public interest, the protection of which requires an interference with the right. Unless all the preconditions, grounds or rules for interference with the law are clear, clear and sufficiently specific, this in itself entails the risk not only of excessive interference with the law, but also of the mis-satisfaction of the public interest. Consequently, a reasonable and proportionate balance of private and public interests cannot be achieved. Such a norm regulating interference with the law cannot meet the requirements of the principle of proportionality.<sup>21</sup> The

scope of the public interest is also set out in Article 8 of the European Convention on Human Rights, which allows interference with the law when it is necessary: in a democratic society in the interests of national security, public safety, economic prosperity, to prevent disorder or crime, to protect health or morals or the rights and freedoms of others.<sup>22</sup>

Police law, in addition to principles, also offers definitions of terms that set certain standards for a police officer in the exercise of his or her powers. The existence of a threat is a precondition for the implementation of a police measure. A police officer can only take police action if a threat is identified, restrict a person's freedom, and determine the responsibility of those responsible for causing a threat to take a specific action or omission. The concept of threat limits the preventive activities of the police, defines its starting and ending points, while ensuring the protection of citizens' rights and freedoms from unjustified interference by the state. Thus, the notion of danger ensures compliance of police activities with the principle of the rule of law.<sup>23</sup> It should be noted that the perception of danger should not depend only on the views of the police. It should not be abstract and the police officer has no right to unjustifiably restrict a person's right on the grounds of danger. The implementation of police measures is related to the existence of a specific threat. This is the specific threat defined in Article 2 (c) of the Law of Georgia on Police. Danger, according to the law, is a situation where there are sufficient grounds to assume that in the event of an uninterrupted course of events, there is a high probability of harm to the good protected by the police.<sup>24</sup> The state has no right to take any measure it deems appropriate and adequate in order to combat a serious threat. Interference with the right, due to its latent nature, carries the risk of abuse of power, abuse, which may have detrimental consequences for a democratic society as a whole. Consequently, in a democratic society, interference with the law can be justified only if the legislation is provided with effective mechanisms to protect against the abuse of power. A state that puts its citizens at risk of covert control should not enjoy unlimited powers. Otherwise, unbalanced legislation, motivated by the protection of democracy, may make democracy itself very fragile and fragile.<sup>25</sup>

18 European Court of Human Rights (ECHR). Case № 15225/89, (31.01.1995). Friedel v. Austria. Paragraph 44.

19 Bokhashvili. B, Korkelia K, 2017. The right to respect for private and family life and the obligations of the state Overview of the case law of the European Court of Human Rights and the case law of the Constitutional Court of Georgia, p. 22-23.

20 Constitutional Court of Georgia, Case №1/3/407 (26.12.2007) Georgian Young Lawyers Association and Citizen of Georgia Ekaterine Lomtadze v. Parliament of Georgia, II-3

21 Constitutional Court of Georgia, Case №1/3/407 (26.12. 2007) Georgian Young Lawyers Association and Citizen

of Georgia Ekaterine Lomtadze v. Parliament of Georgia, II-12.

22 *Ibid.*, P. II-8.

23 Beraia. I. Gelashvili. N, Giorgishvili. St., Izoria. L, Kiladze. S., Muzashvili. D, Turava. Q, 2015. Police Law. Tbilisi, p. 113-114.

24 *Ibid.*, P. 114.

25 Constitutional Court of Georgia, Case №1/3/407



In police law, the powers vested in the police have a special place in the conduct of policing, as it is these powers that determine the activities of the police.<sup>26</sup> Police action increases the increased risks of human rights interference. In the exercise of its powers, the police have direct contact with the goods protected by police law. Undoubtedly, a person's personal freedom, his inviolability, freedom to act according to his own will is not an absolute, unrestricted right. However, it is absolutely protected from illegal, unreasonable and arbitrary restrictions. Due to the importance of the right to personal liberty, its restriction is allowed only on the basis of the consent of the court, its decision. According to the Constitution, the court, on the one hand, acts as a guarantor of the protection of a person's physical liberty, and, on the other hand, as a legitimate body empowered to restrict it.<sup>27</sup> Paragraph 3 of Article 13 of the Constitution provides for a kind of exception to the above-mentioned norm, which provides for the detention of a person or other restriction of liberty in a case provided by law, by a specially authorized person, without a court decision. However, the scope of this exceptional norm is strictly regulated by the Constitution. Article 13 paragraph 3 sets out the obligation that a detained or otherwise deprived person be brought before a court no later than 48 hours.<sup>28</sup> Exceptional authority is provided in cases where there is an immediate, urgent need to restrict a person's physical liberty in order to prevent or prevent a crime (offense).<sup>29</sup>

Georgian Law on Police provides for the identification of a person as one of the preventive police measures.<sup>30</sup> The main purpose of identifying a person is to protect public safety. The identification of a person is manifested in specific activities, namely: taking fingerprints and handprints, taking photographs, recording characteristic physical signs, measuring height, recording sound, recording other biometric data. First of all, it should be noted that this measure does not depend on the good will of the person, the police officer

has the right and obligation to identify the person in the above cases. Due to the fact that the identification of a person constitutes an intensive interference with human rights, a protocol is drawn up during the implementation of this measure.<sup>31</sup> In a given situation, a person is stopped for identification. It is also important to note that in proportion to the time of suspension, the requirement of a police officer to justify a person's delay also increases. The time of restriction of liberty should not be so long as to give the suspended person the impression that his freedom of movement is restricted indefinitely.<sup>32</sup> A police measure that restricts human rights must be based on strictly defined, foreseeable procedures. There can be no unjustified interference with human rights for the sake of public safety. The decision of the Constitutional Court of Georgia in the case of Levan Izoria and Davit-Mikheili Shubladze, citizens of Georgia, against the Parliament of Georgia, clarifies that the Court shares the opinion of the plaintiff (constitutional claim No. 503) that restriction of human freedom and constitutional rights is permissible only. The task of the police, its powers are related to the protection of human rights, the prevention of illegal, socially dangerous acts and crimes, their detection. The performance of these tasks (by the police) is linked to the legitimate use of force (power) and, thus, to the restriction of constitutional human rights and freedoms. That is why any action of a police officer must be strictly regulated by law. A police officer is authorized to restrict the constitutional rights of a person only in cases directly defined by law. A request that is not directly derived from the law and leads to interference with human liberty is not binding. Refusal to comply with such a request may not constitute grounds for a more stringent measure against the person.<sup>33</sup>

As mentioned above, in the framework of police preventive measures, there are frequent cases of processing personal data of persons in various forms, including video recording with a mobile phone, identification of a person with a photograph and verification in the database.<sup>34</sup> The Law of Georgia on Personal

(26.12.2007) Georgian Young Lawyers Association and Citizen of Georgia Ekaterine Lomtadze v. Parliament of Georgia, II-9.

26 Beraia. I. Gelashvili. N, Giorgishvili. St., Izoria. L, Kiladze. S., Muzashvili. D, Turava. Q, 2015. Police Law. Tbilisi, p. 139.

27 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-2.

28 Constitution of Georgia, 24.08.1995. Article 13

29 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-13.

30 Law of Georgia on Police (04.10.2013). Article 19.

31 Beraia. I. Gelashvili. N, Giorgishvili. St., Izoria. L, Kiladze. S., Muzashvili. D, Turava. Q, 2015. Police Law. Tbilisi, p. 156.

32 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-34.

33 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-36.

34 Personal Data Protection Inspector of Georgia. Report on the status of personal data protection and the activities of the inspector, 2018, p.66

Data Protection defines what kind of information belongs to personal data, in particular, any information related to an identified or identifiable natural person. A person is identifiable when it is possible to identify him or her directly or indirectly, in particular by an identification number or by a person's physical, physiological, psychological, economic, cultural or social characteristics.<sup>35</sup> Personal data is processed during video recording and/or identification of a person with a mobile phone, at which time data protection should be considered as international,<sup>36</sup> as well as complying with the requirements of national law. In particular, data may be processed only for specific, clearly defined, legitimate purposes. No further processing of the data for other purposes incompatible with the original purpose is permitted. Also, data may be processed only to the extent necessary to achieve the relevant legitimate purpose and the data should be adequate and proportionate to the purpose for which they are being processed.<sup>37</sup> Data security must also be emphasized, which is also very important: the principle of data security requires that appropriate technical or organizational measures be taken in the process of processing personal data to protect it from accidental, unauthorized or unauthorized access, use, modification, disclosure, destruction or damage.<sup>38</sup> In general, identification can be an effective measure to prevent and detect an offense, however, in such cases, it is important to have a foreseeable legal procedure. When taking photos and/or videos, the right to personal data protection obliges everyone, and especially journalists, not to take pictures of anyone without permission and not to distribute them by any means, especially if it allows them to identify the person. This prohibition does not apply to missing or wanted persons.<sup>39</sup> It should also be noted that this right is not absolute and is subject to limitation, with appropriate grounds and guarantees. In the European Court of Human Rights, *Friedley v. Austria* states: "It is important to assess where, when and under what circumstances a

photograph is taken. Issues related to filming or public incidents, material obtained in this way is intended for restricted use if it is available to the general public, etc. The court does not consider the use of a human photo in a criminal investigation Made public, or used for purposes other than investigation. In the present case, the Vienna police took photographs during a demonstration in which the applicant also participated and the photos were taken. By means of his identity. The Court held that such a photograph did not constitute an interference with Article 8 of the Convention. This finding is linked to several factors: "First, there was no interference with the applicant's private life in the 'inner circle', in the sense that the authorities did not enter his residence and did not take photographs there. Second, the photos were related to a public incident, namely the gathering of multiple persons in a public place in which the applicant had voluntarily participated. Third, the filming was conducted to clarify the nature and situation of the gathering and to record the persons participating in it, in order to provide a legal response to the violation of traffic rules."<sup>40</sup>

In order to protect public safety and law and order, the state must have the necessary legal leverage to prevent threats. This is especially important when avoiding recidivism. However, it is important to draw a clear line between prevention and the offense (crime) committed. It should also be noted that even during the prevention of offenses, the state does not act without restriction.

In the Constitutional Court case, *Edisher Goduadze*, a citizen of Georgia, explains against the Minister of Internal Affairs of Georgia that the possession of a person's personal data by the state, despite its degree of protection against unauthorized access and misuse, always carries a certain risk of processing the data. . Such a restriction threatens to stigmatize the person and in some cases lead to different treatment. These risks increase when personal data relates to a person's misconduct. However, it should be noted that the availability of information about the committed act in the hands of the state itself creates the mood of the data subject that, despite the responsibility, he remains a permanent offender before the state, which in itself complicates the moral rehabilitation of the person.<sup>41</sup>

35 Law of Georgia on Personal Data Protection. (28.12.2011). Article 2.

36 Council of Europe Convention. №108 (28.01.1981). "On Protection of Individuals in Automatic Processing of Personal Data"

37 Law of Georgia on Personal Data Protection. (28.12.2011). Article 4.

38 EU Agency for Fundamental Rights. Council of Europe, European Court of Human Rights. EU Data Protection Supervisor. 2018. Handbook of European Data Protection Law. P. 149.

39 Turava, P. (Ed.), 2013. Commentary on the Constitution of Georgia. Publication of the Regional Center for Research and Promotion of Constitutionalism, Tbilisi. P. 97.

40 European Court of Human Rights (ECHR). Case № 15225/89, (31.01.1995). *Friedel v. Austria*. Paragraph 48.

41 Constitutional Court of Georgia. Case №1/2/622 (09.02.2017). *Citizen of Georgia Edisher Goduadze v. Minister of Internal Affairs of Georgia*. II-27.

## CONCLUSION

Without detailing the grounds for interference with a person's physical liberty at the legislative level, the guarantees provided for in the Constitution of Georgia lose their purpose. The purposes of the restriction of the right, its grounds, as well as the consequences that may result from the interference with the right must be clear. The restrictive norm must be clear enough not to cause the restriction of the right to be greater than is necessary to achieve a legitimate aim. Any action related to interference with personal liberty, based on clearly formulated legal norms, must be carried out in full compliance with the requirements of the Constitution.<sup>42</sup> It is necessary to develop a specific and detailed procedure for identifying a person/photo in a database during a preventive measure, which will help to establish a common standard in this area and minimize the risk of processing citizens' personal data in violation of the law. It is also necessary to analyze the appropriateness of using the mobile phone and information transfer facilities used by the employee for the relevant event. According to the rule of law of the executive branch, the principle of bondage also applies to the activities of police bodies. As the protection of public safety and order often requires the restriction of human freedoms, it is necessary to create a special legal basis for the activities of the police.<sup>43</sup> The purpose of restricting human rights must always be to protect other constitutional good, as the need to restrict a right generally arises when the

exercise of that right comes into conflict with the rights of others or with the interests of a democratic society. In this context, the protection of proportionality is of great importance. The severity of the expected threat to legal good is noteworthy. Legal goodness, on the one hand, is presented in the form of a specific right, which is restricted, and, on the other hand, there is a public interest, which is protected by interference with the relevant right.<sup>44</sup> Citizens of Georgia, Levan Izoria and Davit-Mikheili Shubladze v Parliament of Georgia, the Constitutional Court shares the views of the plaintiff remarking that, list of actions to be taken after the suspension should be defined, since only by law directly established can become grounds for interference with human rights. The competence of the police officer should be adequate to achieve the objectives of the suspension, which, in turn, implies the obligations of the suspended person to meet the powers of the police officer.<sup>45</sup>

In view of the above, the degree of protection should be much higher when restricting this area of personal life. The specific purpose, tasks and grounds for interference with the law must be given in detail, clearly, with sufficient conviction and clarity. The rule of interference with the right should be unambiguous, clear and foreseeable, in other words the law should create a very clear and conspicuous idea of when and how the rights of persons may be at risk of restriction.<sup>46</sup>

42 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-26.

43 Korkelia, K. (Ed.), 2014. "Human Rights and Legal Reform in Georgia", Collection of Articles, p. 136.

44 Constitutional Court of Georgia. Case №1/2/503,513. (11.04.2013). Citizens of Georgia – Levan Izoria and Davit-Mikheili Shubladze v. Parliament of Georgia, II-71.

45 *Ibid.*, II-37.

46 Constitutional Court of Georgia, Case №1/3/407 (26.12.2007) Georgian Young Lawyers Association and Citizen of Georgia Ekaterine Lomtadze v. Parliament of Georgia, II-13.

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18. European Court of Human Rights (ECHR), Case – №13710/88, (16.12.1992). Niemietz v. Germany. (In English)
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