

საქართველოს ახალგაზრდა იურისტთა ასოციაცია  
GEORGIAN YOUNG LAWYERS' ASSOCIATION



**This Affects You appeals to  
Constitutional Court to curb direct  
access to citizens' telephone and  
internet data**

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**April 8, 2015, Tbilisi** □ Members of the campaign This Affects You have presented an appeal to the Constitutional Court of Georgia, requesting abolishment of the amendments to secret surveillance legislation adopted by the Georgian Parliament in November 2014.

Currently, the Ministry of Internal Affairs (MIA) has non-restricted access to the citizens □ telecommunications data in real time as well as an ability to copy electronic communication companies □ databases without prior authorization of the court. We believe that this directly violates the Georgian citizens' constitutional rights and are appealing to the Constitutional Court to remove the respective legislative passages. According to the appeal, the current legislation violates:

**Article 20 (1) of the Constitution**, which guarantees the inviolability of a citizen □ private life, place of personal activity, personal records, correspondence, communication by telephone or other technical means, as well as messages received through technical means;

**Article 16 of the Constitution**, which defines the right to free development of his/her personality;

**Article 41 (2) of the Constitution**, which states that information existing in official documents pertaining to individual □ health, his/her finances or other private matters, shall not be accessible to anyone without the consent of the individual in question except in the cases determined by law, when it is necessary for ensuring the state security or public safety.

The appeal to the Constitutional Court of Georgia requests the abolishment of respective articles in the laws on Electronic Communications and Personal Data Protection which envisage a two-step electronic system (so-called two-key system and permanent access) for conducting secret surveillance.

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The appeal has already been forwarded to the Constitutional Court of Georgia. We hope the court finds the case admissible in the near future. If the Constitutional Court agrees with our arguments, the latest amendments adopted by the state legislature in 2014 will be declared unconstitutional and the Parliament will have to elaborate new legislation to regulate secret surveillance.

Civil society organizations have been objecting to the unrestricted access of the law enforcement agencies to the personal communication of the citizens. In August 2014, significant advances were made towards protecting the right to privacy in Georgia with the legislative amendments advocated for by the campaign This Affects You. These positive steps were, however, drastically undermined with the second set of amendments adopted in November 2014. As a result, the law still allows the law enforcement agencies within the MIA to retain unchecked, direct access to telecommunications data.