

STUDY ON THE STATE OF PERSONAL DATA PROTECTION OF THE LGBT+ COMMUNITY MEMBERS IN GEORGIA

EXECUTIVE SUMMARY

The logo for the Rule of Law Centre (RLC) is displayed in white text on a purple circular background. The letters 'R', 'L', and 'C' are bold and sans-serif, with a horizontal line above the 'C'.

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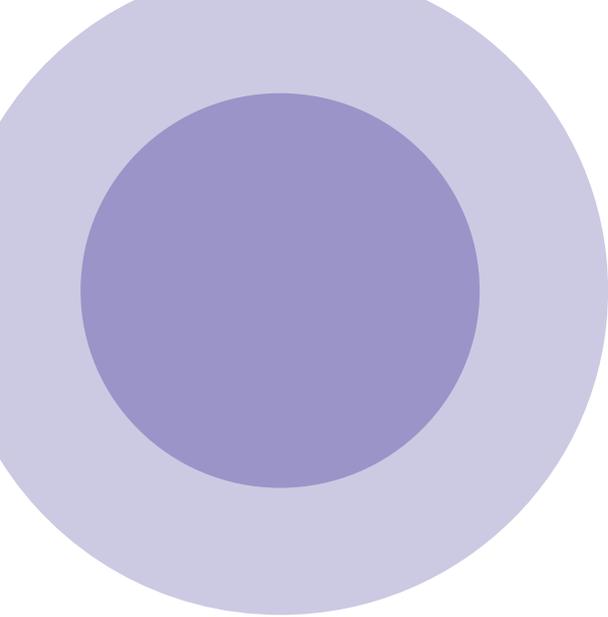


The study was carried out by the non-governmental organization Rule of Law Centre.

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The right to private life and personal data protection are equally important for everyone; however, this right is especially significant for the LGBT+ community members, as they are often victims of abuse, discrimination, degrading treatment, verbal and physical violence when their sexual orientation or gender identity is disclosed. Furthermore, due to incidents of unlawful disclosure and use of their personal data, members of the LGBT+ community frequently refuse or avoid receiving necessary medical services, applying to police or availing of other social services.

The purpose of the study **‘The State of Personal Data Protection of the LGBT+ Community Members in Georgia’** was to examine the current state of personal data protection of the LGBT+ community in Georgia, identify existing challenges in data processing and make recommendations to raise the standards of personal data protection for the LGBT+ community in various areas.

KEY FINDINGS OF THE REPORT:

- Sometimes data of the LGBT+ community members are processed by the **healthcare sector**, without a legal basis, including for non-official (personal) purposes; the data is gathered from the community members in a degrading manner; sometimes unnecessary (excessive) data is processed for medical services. Most medical institutions lack proper organizational and technical data protection measures to prevent unauthorized or accidental disclosure and use.
- Similar problems exist with how employees of **the Ministry of Internal Affairs** process the data of the LGBT+ community members. They are sometimes processed without the grounds stipulated by the law: including for non-official (personal) purposes; sometimes information provided by a LGBT+ person during an interview and/or information available in a criminal case is disclosed to unauthorized third parties. At times, the data of the LGBT+ community members are processed in a degrading manner. At the same time, in most cases, proper organizational and technical data protection measures are not in place to ensure protection of data from unauthorized or accidental disclosure and use. For instance, it was revealed that the witness and the victim are interviewed in a common space, in the presence of other investigators and citizens, while the interview protocols are placed on the investigator's desk, in a manner that is accessible to unauthorized third parties.
- In some cases, **the lawyers**, when giving interviews to the media and/or through a social network, disclosed personal information, including sexual orientation of a participant in a court process in an unethical, degrading manner, and without proper legal grounds.

- In some cases, **psychologists** disclose patient personal data, including to third parties and without the consent of the data subject.
- The study also revealed that **according to Georgian legislation, there is no provision regarding the closure of court hearings on the basis of personal data protection when considering civil and administrative cases.** Accordingly, as the study showed, the request of the party (LGBT+ person) to close a hearing on this basis, as a rule, is not granted by judges.
- In some cases, when providing services, due to the spatial arrangement of **the Public Service Halls**, there is a risk of unlawful or accidental disclosure of data. Using data for non-official purposes by an employee of the Public Service Hall was also revealed.
- **Media/journalists** often disclose information about sexual orientation and gender identity of LGBT+ persons, including without their consent, in an improper volume and form.
- The processing of personal data in **the workplace** has been identified as another challenge as LGBT+ persons are treated in a discriminatory manner by employers. The study revealed that after learning about their gender identity or sexual orientation, employer organizations often dismiss LGBT+ people from work.
- **The Personal Data Protection Authority** does not collect statistical data on cases related to the processing of personal data of the LGBT+ community, which made it difficult to analyse its decisions in these cases.
- **LGBT+ people** have little information about the protection and privacy of personal data and the mechanisms to protect it. Even when they do have such information, they are less responsive to issues of unlawful data processing, fearing retribution, and do not apply to the data protection and investigative authorities.

- **NGOs protecting the rights of LGBT+ community members** need support to strengthen personal data security measures and raise data protection standards.

Based on the key findings, international standards and national regulations, the study develops recommendations both for the Parliament of Georgia and the Personal Data Protection Authority, as well as for those public and private institutions where LGBT+ persons face challenges in data processing.

The recommendations aim to raise standards for the protection of personal data of the LGBT+ community members, which will ultimately enable the proper realization of their right to privacy and other fundamental rights.

KEY RECOMMENDATIONS:

- Refine the language and scope of the legislation, including adding ‘sexual orientation’ and ‘gender identity’ as a special category of data to the Law of Georgia on Personal Data Protection.
- Introduce the position of a data protection officer for institutions processing large volumes of data.
- Develop detailed recommendations/internal guidelines regulating data processing and the strengthening of measures to protect data security; introduce effective monitoring mechanisms by data controllers.
- Increase the qualifications of data processors, raise awareness of data subjects and strengthen the activities of the NGOs protecting the rights of LGBT+ persons.
- Perfect statistical data related to personal data protection of LGBT+ people and strengthen efforts of internal monitoring bodies of data processors.

More detailed recommendations developed for the Parliament of Georgia, the Personal Data Protection Supervisory Authority, as well as for public and private institutions in various fields may be found in the study.

