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## **Standard for Assessing Lawyers' Professional Obligations by the PDPS in Requests for Information Containing Personal Data**

### **ABSTRACT**

Lawyers bear the professional obligation to ensure the legality of data processing in the course of their practice. The rules established by the Law of Georgia on Personal Data Protection, and consequently the supervisory powers of the Personal Data Protection Service (PDPS), extend to the processing of data, including legal practice. According to the PDPS's practice, when a supervisory authority examines the lawfulness of data processing, the applicable legislation obliges the lawyer to provide the PDPS with the requested information. Non-compliance, including failing to submit information or documentation to the PDPS, is considered a breach of law and the duty to inform the PDPS. Such breaches are classified as administrative offences and lead to administrative liability for the lawyer.

Since lawyers represent a self-regulated profession bearing professional responsibility, this article examines the conflict between the lawyer's obligation to uphold professional standards and to fulfill requests from the PDPS. The conflict is examined against the background of the practice of personal data protection and the Ethics Commission of the Georgian Bar Association. Particular attention is given to assessing the arguments on which the Personal Data Protection Service bases its view that being fully informed does not violate the professional obligations of lawyers. The study focuses on three aspects in particular: the extent of the PDPS's assessment of client protection by lawful means; the relationship between the PDPS's request for information and the

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protection of lawyers' professional secrecy, and; limits of the general powers of the supervisory authority.

This analysis will evaluate the standard used by the PDPS for assessing lawyers' professional obligations regarding personal data requests. It develops recommendations to assist the PDPS in studying lawyers' conduct. The focus is on ensuring compliance with lawyers' professional standards.

**Keywords:** Lawyer, Personal Data Protection, PDPS, Legal Ethics, Professional Secrecy.

## I. Introduction

In the course of their professional activities, lawyers handle information from clients and other sources which may include the personal data of other parties involved in proceedings, the legality of whose processing could be subject to dispute. Both domestic and international personal data protection regulations are applicable across all sectors.<sup>1</sup> According to the legal framework of the European Union and the Council of Europe, independent and effective supervisory authorities are regarded as one of the essential elements of the right to the protection of personal data.<sup>2</sup> The rules established by the Law of Georgia on Personal Data Protection, and consequently the supervisory powers of the Personal Data Protection Service (hereafter PDPS),<sup>3</sup> extend to the processing of data by a natural person in connection with his or her entrepreneurial or professional activities, including legal practice.<sup>4</sup> PDPS focuses on examining applications related to data protection.<sup>5</sup> In 2025, the Parliament of Georgia adopted a legislative package that **abolished the Personal Data Protection Service (PDPS)** as an independent institution and **transferred its functions to the State Audit Office**, effective **March 2, 2026**.<sup>6</sup> All responsibilities previously exercised by the PDPS are now performed by the State Audit Office.<sup>7</sup> This merger is part of a broader **government administrative reform** aimed at *optimizing public administration*,

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<sup>1</sup> Goshadze, 2020, 43.

<sup>2</sup> IDFI, 2021, 19.

<sup>3</sup> Bakhsoliani, 2022, 15.

<sup>4</sup> Law of Georgia "On Personal Data Protection", 14 June 2023, Art. 2.

<sup>5</sup> *Ibid.*, Art. 22 (1).

<sup>6</sup> Law of Georgia "On Amendments to the Law of Georgia "On Personal Data Protection", 17 December 2025.

<sup>7</sup> Law of Georgia "On Personal Data Protection", 14 June 2023, Art. 22(1).

*simplifying institutional responsibilities, and clarifying the distribution of oversight functions.*<sup>8</sup> The **State Audit Office** is the authority in Georgia responsible for carrying out other supervisory functions previously exercised by the PDPS.<sup>9</sup> At this stage, the legislative regulation and practice discussed in the article are not affected by the amendments to the law, as they relate solely to replacing the supervisory authority, and the issues remain valid for lawyers at present.

According to the PDPS's practice, when a supervisory authority examines the lawfulness of data processing, the applicable legislation obliges the lawyer to provide the PDPS with the requested information.<sup>10</sup> Non-compliance, including failing to submit information or documentation to the PDPS, is considered a breach of law and the duty to inform the PDPS. Such breaches are classified as administrative offences and lead to administrative liability for the lawyer.<sup>11</sup>

The practice developed by the PDPS in the course of examining complaints lodged by third parties poses a challenge for the legal profession, insofar as the requested information may fall within the scope of professional secrecy. Since a lawyer is a person bearing professional responsibility,<sup>12</sup> his or her activity is protected by such professional principles as legality,<sup>13</sup> independence,<sup>14</sup> professional secrecy,<sup>15</sup> competence,<sup>16</sup> and trust.<sup>17</sup> Therefore, lawyers represent a self-regulated profession with specific professional obligations. When the state compels lawyers to comply with the requests of the PDPS, a conflict arises. This conflict falls between the lawyer's obligation to uphold professional standards and the request from the state.

The Ethics Commission of the Georgian Bar Association has confirmed the conflict by advising lawyers against sharing information obtained during their professional activities with the PDPS. They claim that cooperating with the PDPS would violate standards of professional conduct.<sup>18</sup> Notably, the Georgian Bar Association,

<sup>8</sup> Public Statement of the Georgian Parliament, 17 December 2025.

<sup>9</sup> Ibid.

<sup>10</sup> Law of Georgia "On Personal Data Protection", 14 June 2023, Art. 51 (4); Decision N8-1/575/2018 of the State Inspector PDPS, 17 October 2018.

<sup>11</sup> Decision N8-1/414/2019 of the State Inspector PDPS, 17 December 2019.

<sup>12</sup> Law of Georgia "On Lawyers", 20 June 2001, Art. 1, 5, 6, 7; Code of Professional Ethics of Advocates of Georgia, 15 April 2006, Art. 2-5.

<sup>13</sup> Khubuluri, 2016, 87.

<sup>14</sup> Myers, 1999, 858.

<sup>15</sup> Zacharias, 1989, 358.

<sup>16</sup> Goldstein Bolocan (ed.), 2002, 25.

<sup>17</sup> McChrystal, 1992, 370.

<sup>18</sup> Recommendation N007/18 of the Ethics Commission of the Georgian Bar Association, 17 July 2018.

which defends lawyers' rights in Georgia,<sup>19</sup> has publicly expressed concern that the practice established by the PDPS limits a lawyer's ability to use information obtained for legitimate purposes of client protection, and creates a real risk of interference with legal practice.<sup>20</sup>

Against the backdrop of these two opposing positions, the significance of studying the issue is further underscored by existing court practice statistics. Information obtained from the courts<sup>21</sup> and the PDPS<sup>22</sup> indicates that, to date, the courts have not yet substantively ruled on the matter.<sup>23</sup> Moreover, at this stage, apart from the decisions in which the PDPS has identified violations concerning a lawyer's duty to inform the PDPS, the PDPS has not undertaken any other activities regarding lawyer compliance with personal data protection rules.<sup>24</sup> At the same time, however, the PDPS supports strengthening enforcement mechanisms and increasing sanctions.<sup>25</sup>

This research examines the standard used by the PDPS for assessing lawyers' professional obligations regarding personal data requests. In particular, the study analyzes inconsistencies between the decisions of the Personal Data Protection Service and the professional obligations imposed on lawyers. The approaches of the PDPS and the Ethics Commission of the Georgian Bar Association are examined and compared. Through systematic and logical analysis of these approaches, together with a review of the case law of the European Court of Human Rights, the research identifies key trends emerging in practice. The recommendations of the Council of Bars and Law Societies of Europe are also analyzed, and, based on their experience, relevant best practices are outlined. Finally, through the use of inductive and deductive methods, conclusions and relevant recommendations are presented to assist the State Audit Office in assessing lawyers' conduct and promoting appropriate professional practice. The focus is on ensuring compliance with ethical standards.

<sup>19</sup> Khandashvili and Turazashvili, 2018, 15.

<sup>20</sup> Public Statement of the Georgian Bar Association - "Appeal of the Bar Association to the State Inspectorate Service", 25 December 2019.

<sup>21</sup> Letter No. 3-0154/7028830 of the Tbilisi City Court, 24 March 2023; Decision N4/8707-18 of the Administrative Panel of the Tbilisi City Court, 26 October 2018.

<sup>22</sup> Letter NPDPS 8 23 00001885 of the PDPS, 20 March 2023.

<sup>23</sup> In two cases where lawyers challenged the decision of the PDPS to name them violators, on the grounds of a conflict with professional obligations, only one has received a decision to date. In that case, the court did not rule on the merits of the case: it annulled the PDPS's decision, declaring the lawyer a violator due to the expiration of the period for imposing an administrative penalty. On appeal, the lawyers' complaints have yet to be reviewed.

<sup>24</sup> Report of the Personal Data Protection Inspector, 2022, 108-109, 154-155.

<sup>25</sup> IDFI, 2021, 19.

In order to achieve the objectives, set out in this paper, the research mainly relies on **comparative legal methodology**, doctrinal analysis, and case-law interpretation. The Personal Data Protection Service decisions and ethical opinions were selected, in which the approach of the PDPS to the professional obligations of lawyers and the corresponding response of the Ethics Commission can be observed.

The paper is structured into four main sections. The first provides the introduction; the second addresses the assessment by the PDPS of the standard of protecting a client through lawful means; the third section examines the relationship between the PDPS's request for the provision of information and the protection of professional secrecy, and; finally, based on the analysis of the above-mentioned issues, conclusions are formulated regarding the standard applied by the Personal Data Protection Service when assessing the professional obligations of lawyers in the process of requesting information containing personal data.

## **II. Assessment by the PDPS of the Standard for Defending a Client Using Lawful Means**

### **1. Obligation to Defend a Client Using Lawful Means and Its Application to the Processing of Personal Information**

Lawyers bear the professional obligation to ensure the legality of data processing in the course of their practice.<sup>26</sup> In the realm of personal data, the principles established by legislation provide a high standard of protection for the rights of data subjects.<sup>27</sup> Among these, the principle of legality is accorded the highest priority in professional regulations, above all other fundamental principles governing legal practice.<sup>28</sup>

When providing legal assistance, a lawyer is professionally required to employ only lawful means;<sup>29</sup> the use of lawful strategies and actions is also in the client's best interests.<sup>30</sup> The lawyer needs to identify the client's interests and subsequently eva-

<sup>26</sup> Besemer, 2020, 127.

<sup>27</sup> Gugava, 2017, 74.

<sup>28</sup> Decision N082/18 of the Ethics Commission of the Georgian Bar Association, 20 February 2019.

<sup>29</sup> Law of Georgia "On Lawyers", 20 June 2001, Art. 1(2), 6 (1).

<sup>30</sup> Decision N010/10 of the Ethics Commission of the Georgian Bar Association, 22 June 2010; Decision N106/12 of the Ethics Commission of the Georgian Bar Association, 31 March 2010; Decision N025/13 of the Ethics Commission of the Georgian Bar Association, 16 April 2014; Decision N048/15 of the Ethics Commission of the Georgian Bar Association, 18 April 2018; Decision N157/13 of the Ethics Commission of the Georgian Bar Association, 20 February 2013.

luate them in terms of legality, purposefulness, and reasonableness.<sup>31</sup> Moreover, the lawyer plays a key role in administering justice and has a responsibility not just to their client, but also to society and everyone involved in legal proceedings, including the opposing parties.<sup>32</sup> The European Court of Human Rights has established that the right to defense requires lawyers to act according to professional ethical standards and within the law.<sup>33</sup>

Accordingly, any lawyer processing data in the course of their professional activity must ensure that such processing complies with applicable legislation, including the Law of Georgia on Personal Data Protection. Personal data should be processed only on legally recognized grounds, and in accordance with the relevant principles. The principles and grounds codified in the law, due to their enduring nature, establish general rules for data processing and define the legality of the actions undertaken by data controllers.<sup>34</sup>

## **2. Extent of the PDPS's Assessment of Client Protection by Lawful Means**

The PDPS has raised concerns about the legality of processing personal data in legal practice, viewing it as an ethical issue.<sup>35</sup> This was illustrated in a case where a lawyer disclosed the opposing party's income and conducted surveillance, including video recordings with a personal phone, during litigation. Regarding the disclosure of income, the PDPS noted that the lawyer referred orally in court to the opposing party's income, which coincided with data held by the Revenue PDPS, but could not specify how the information had been obtained. The PDPS focused on two issues: (1) whether the Law of Georgia on Personal Data Protection applies to data processing for judicial proceedings, and (2) whether it applies to the disclosure and obtaining of information.<sup>36</sup>

<sup>31</sup> Khandashvili and Turazashvili, 2018, 45.

<sup>32</sup> Decision N164/13 of the Ethics Commission of the Georgian Bar Association, 16 July 2014, Decision N118/18 of the Ethics Commission of the Georgian Bar Association, 24 July 2019, Decision Nსსტ-32-19 of the Supreme Court of Georgia, Disciplinary Chamber, 15 January 2020.

<sup>33</sup> Brandstetter v Austria [ECtHR], App. No. 11170/84, 12876/87 and 13468/87, 28 August 1991; X v Switzerland [ECtHR], App.9/27/80, 23 September 1992, X v The United Kingdom [ECtHR], App. No. 7215/75, 5 November 1981.

<sup>34</sup> Report of the Personal Data Protection Inspector, 2013-2014, 2014, 6.

<sup>35</sup> Decision Nგ-1/575/2018 of the State Inspector PDPS, 17 October 2018.

<sup>36</sup> Ibid.

On the first issue, the PDPS concluded that, under Article 2(2)(d) of the Law of Georgia on Personal Data Protection, its provisions do not apply to data processing for judicial proceedings, since this could undermine the trial before a final judgment is rendered. On the second issue, however, the PDPS explained that the law does cover disclosure and obtaining of information used in court. Because the lawyer's obtaining of information was directly connected to professional activity, the PDPS proceeded to assess whether the processing had a lawful purpose and met the test of proportionality. The lawyer refused to disclose details, arguing that the information was protected by professional secrecy. Consequently, the PDPS did not evaluate the lawfulness of the processing in substance, but classified the lawyer's conduct as an administrative violation under Article 52(4) of the Law, citing failure to provide sufficient information.

A similar approach was adopted in another case involving the disclosure of sensitive personal data by a lawyer during a television broadcast.<sup>37</sup> To assess the legality of the act, the PDPS requested details about when the lawyer's relationship with the client began, how and why the information was obtained, and the grounds for its disclosure. The lawyer refused to provide this information, stating that the information had been obtained in the course of legal representation, and that disclosure served the client's defense strategy. The lawyer argued that ethical standards prohibited the provision of any further details to the PDPS.<sup>38</sup> The PDPS ultimately found that the lawyer had unlawfully disclosed sensitive data, namely, information about the data subject's recognition as a victim in a separate criminal case, and qualified this as an administrative violation.<sup>39</sup>

It has been established that the lawful processing of special categories of personal data must comply with statutory principles aimed at ensuring fairness and legality, thereby reinforcing the principle of a fair state.<sup>40</sup> Undoubtedly, lawyers fall within the scope of personal data protection regulations; however, the key issue is defining the proper limits of the PDPS's assessment of a lawyer's professional conduct when he/she is acting in defense of a client's lawful interests.<sup>41</sup>

The PDPS's practice shows that its competence extends to the lawfulness of data processing carried out by lawyers in their professional roles. Processing carried out

<sup>37</sup> Decision N8-1/137/2020 of the State Inspector PDPS, 21 April 2020.

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> Law of Georgia "On Personal Data Protection", 14 June 2023, Art. 6 (1).

<sup>41</sup> Decision N8-1/137/2020 of the State Inspector PDPS, 21 April 2020.

solely for personal purposes falls outside the scope of the Law of Georgia on Personal Data Protection. Where a lawyer acts in a professional capacity, however, they are considered a data controller, and the use of personal data must be assessed accordingly. The PDPS makes a clear distinction between personal and professional data processing, with only the latter being subject to its regulations. When data is disclosed in court proceedings, the PDPS does not examine the processing itself, but it may still review whether the disclosure and obtaining of that information by the lawyer comply with the law.<sup>42</sup>

The PDPS has correctly emphasized that lawyers are obliged to protect their clients' interests through lawful means according to the ethical principle of legality, which in turn requires lawful processing of personal data. However, recent practice shows a problematic trend: if a lawyer invokes professional secrecy and refuses to provide information, the PDPS does not substantively assess lawfulness, but instead sanctions the lawyer for insufficient disclosure. This approach risks undermining not only legal standards of lawfulness, but also core professional obligations, such as the duty of professional secrecy. When assessing legality, the PDPS should focus on whether the lawyer acted within the scope of professional representation. Only where the lawyer exceeds the limits of client representation can the finding of a violation be properly justified.

### **III. The Relationship between the PDPS's Request for Information and the Protection of Lawyers' Professional Secrecy**

#### **1. The Ethical Dimension of Informing the PDPS**

##### **1.1. The Right to Defense Guaranteed by Professional Secrecy**

The right to defense, protected by the principle of professional secrecy, has been central to the debate between the Ethics Commission of the Georgian Bar Association and the PDPS. The Ethics Commission, in response to a lawyer's inquiry, examined whether a lawyer would violate ethical duties by providing the PDPS with information, including case-related documents about a client. In its public recommendation, the Commission clarified that laws regulating the legal profession do not allow lawyers to disclose information obtained during their professional work to the PDPS

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<sup>42</sup> Ibid.

upon request.<sup>43</sup> Any departure from this stance would violate the obligation to maintain professional secrecy.<sup>44</sup>

In contrast, the PDPS has adopted a markedly different approach. It argues that access to information protected by professional secrecy is essential for fulfilling its supervisory mandate under law. On this basis, the PDPS contends that lawyers are obliged to provide the requested information fully and promptly, regardless of the professional secrecy standard.<sup>45</sup>

This divergence in interpretation has had practical consequences. In cases examined by the PDPS, lawyers refused to disclose information, citing the principle of professional secrecy. These refusals formed the grounds for administrative violation findings against them.<sup>46</sup> Such outcomes highlight the tension between oversight mechanisms and the core professional duties of lawyers.

The position advanced by the Ethics Commission is particularly compelling. Protecting professional secrecy serves as a guarantee of the right to defense, arising directly from the lawyer's professional role. Its primary purpose is to foster client trust,<sup>47</sup> encouraging open communication between lawyer and client.<sup>48</sup> Without such assurance, meaningful communication would be compromised.<sup>49</sup> Thus, the principle ensures the reliability of client protection<sup>50</sup> while also upholding the independence and integrity of the legal profession.<sup>51</sup>

It should be noted that the concept of professional secrecy requires a clearer analytical distinction, as the article refers to the following terms: *professional secrecy*, *confidentiality*, and *professional privilege*. Under Georgian Legal Ethics' regulations, the terms professional secrecy and confidentiality are treated as synonymous.<sup>52</sup> The obligation to maintain professional secrecy is almost absolute<sup>53</sup> and, as a general rule, requires a lawyer to act only with the client's consent, save for a limited number of

<sup>43</sup> Recommendation N007/18 of the Ethics Commission of the Georgian Bar Association, 17 July 2018.

<sup>44</sup> Ibid.

<sup>45</sup> Decision N8-1/414/2019 of the State Inspector PDPS, 17 December 2019.

<sup>46</sup> Decision N8-1/575/2018 of the State Inspector PDPS, 17 October 2018.

<sup>47</sup> Richmond, 2022, 303.

<sup>48</sup> Fischel, 1998, 1-3.

<sup>49</sup> Northrop, 2009, 1494.

<sup>50</sup> Recommendation N007/18 of the Ethics Commission of the Georgian Bar Association, 17 July 2018.

<sup>51</sup> Fischel, 1998, 1-3.

<sup>52</sup> Gasitashvili et al., 2013, 23-24.

<sup>53</sup> Crystal, 1982, 219.

exceptions established by law.<sup>54</sup> Lawyer–client privilege is not interpreted as broadly as the ethical duty of confidentiality. The ethical duty encompasses virtually all information relating to the client, whereas, in the context of privilege, the focus is on communication between the lawyer and the client. Information that becomes known to a lawyer directly from the client, through communication with the client in the course of representation, is considered inviolable. Accordingly, information obtained from other sources does not fall within the scope of privilege. Georgian legislation does not provide an explicit definition of privileged information. However, in its decision, the Ethics Commission interpreted this term and stated that “only information that becomes known to a lawyer directly from the client and/or from a person seeking legal advice who has approached the lawyer for the purpose of ensuring the protection of their rights shall be considered inviolable (privileged information).”<sup>55</sup>

The receipt of confidential information is inherently linked to the “very essence of the lawyer’s function,”<sup>56</sup> and confidentiality is regarded as both a “fundamental right and duty of the lawyer,”<sup>57</sup> given that lawyers obtain information in their professional capacity which their clients would not disclose to any other person.<sup>58</sup> Exceptions to this principle are permissible only when consistent with the principles of the rule of law.<sup>59</sup>

Professional secrecy is not, strictly speaking, a fundamental right in itself, but it is protected as a specific manifestation of the right to respect for private life.<sup>60</sup> The European Court of Human Rights has repeatedly associated legal professional privilege and professional secrecy with the protections afforded under Articles 6 and 8 of the European Convention on Human Rights.<sup>61</sup>

A further basis for endorsing the reasoning set out in the Ethics Commission’s recommendation derives from the significance of the client’s will as an element of the right to defense. The principle of confidentiality enables clients to disclose infor-

<sup>54</sup> Law of Georgia “On Lawyers”, 20 June 2001, Art. 7; Code of Professional Ethics of Advocates of Georgia, 15 April 2006, Art. 4.

<sup>55</sup> Gasitashvili et al., 2021, 237.

<sup>56</sup> Goldstein Bolocan (ed.), 2002, 30.

<sup>57</sup> CCBE, 2021, Model Article on Confidentiality (2).

<sup>58</sup> Ibid.

<sup>59</sup> Recommendation No. R(2000)21 of the Committee of Ministers to member States on the freedom of exercise of the profession of lawyer, principle I, (6), (Principle III, paragraph 2).

<sup>60</sup> Giacompos, Butarelli and O’Flaherty, 2018, 53.

<sup>61</sup> ECtHR, Factsheet – Legal professional privilege, 01 November, 1, <[https://www.echr.coe.int/Documents/FS\\_Legal\\_professional\\_privilege\\_ENG.pdf](https://www.echr.coe.int/Documents/FS_Legal_professional_privilege_ENG.pdf)> [23.09.2025];

mation to their lawyers without fear that it will be shared with others without their explicit consent, and this assurance is essential to the administration of justice.<sup>62</sup> Confidentiality thus creates a protected environment in which the lawyer is understood to serve solely as a conduit of the client's interests, free from considerations of public order that could otherwise alter the client's conduct.<sup>63</sup>

Once a lawyer agrees to provide information to the PDPS, fiduciary duties immediately arise.<sup>64</sup> The duty of professional secrecy protects both the information given directly by the client, and any details obtained from other sources about the client's case.<sup>65</sup> Lawyers cannot freely use such material at their own discretion.<sup>66</sup> Confidentiality gives clients a safe space to decide which issues are important to them and when, and how much of their personal information may be shared,<sup>67</sup> both during the lawyer-client relationship and after its termination.<sup>68</sup> The state, represented by the PDPS, should not be permitted to intrude upon this protected sphere, which exists to safeguard the client's autonomy in self-determination.<sup>69</sup> A lawyer's obligation not to disclose information without the client's consent thus preserves the client's autonomy, an obligation that becomes particularly significant where the state seeks to intervene.<sup>70</sup>

When assessing the Ethics Commission's reasoning, it is important to note that professional regulations clearly establish the rules and exceptions for handling client-related information within the scope of professional secrecy. Aside from exceptions explicitly provided by law,<sup>71</sup> a lawyer is obliged not to disclose client information to third persons, and this obligation is not limited in time.<sup>72</sup> Breaching this duty entails professional liability. Therefore, the PDPS should recognize that lawyers operate under strict professional obligations, and requested information may fall within the scope of professional secrecy. Compelling disclosure could conflict with the right to defense, and may expose lawyers to professional liability.

<sup>62</sup> Gordon, 1993, 572.

<sup>63</sup> Martyn, 2003, 1328.

<sup>64</sup> Pizzimenti, 1990, 446.

<sup>65</sup> Law of Georgia "On Lawyers", 20 June 2001, Art. 7; Code of Professional Ethics of Advocates of Georgia, 15 April 2006, Art. 4.

<sup>66</sup> Gasitashvili et al., 2013, 24.

<sup>67</sup> Martyn, 2003, 1329.

<sup>68</sup> Recommendation N017/13 of the Ethics Commission of the Georgian Bar Association, 27 September 2013.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> Law of Georgia "On Lawyers", 20 June 2001, Art. 7 (3); Kvachadze et al., 2011, 12.

<sup>72</sup> *Ibid.*, Art. 7 (1)(a).

Professional secrecy is an essential element of modern society. It ensures confidential communication between individuals and professionals, such as doctors, lawyers, or accountants, who receive sensitive information.<sup>73</sup> While confidentiality and data protection are closely tied to the right of informational self-determination, professional secrecy goes further, safeguarding the public interest in maintaining trust in professionals who are bound to preserve confidentiality in their work.<sup>74</sup> Data protection rules and mechanisms are designed to support this safeguard; for example, obligations on data controllers and processors to apply security measures exist to prevent breaches of the confidentiality of personal data protected by professional secrecy.<sup>75</sup>

For this reason, the PDPS should consider the specific professional duties of those it supervises. Since the law exhaustively defines the grounds for disclosing professional secrets, a lawyer cannot unilaterally change these standards. As the PDPS qualifies as a “third person” in the lawyer-client relationship, any information requested from lawyers must be handled by the lawyers strictly within the limits set by law, including the principles of professional secrecy.

## 1.2 The Primacy of Protecting Professional Privilege over Confidentiality

All European countries have regulations ensuring a lawyer’s right and duty to maintain the confidentiality of client matters.<sup>76</sup> In some legal systems, the principle of confidentiality protects lawyer-client communications under the concept of professional privilege, while in others it falls under the broader protection of professional secrecy. Both approaches, however, aim to achieve the same goal: to safeguard information shared for legal advice, representation, or both.<sup>77</sup>

Professional ethics defines “trust” as information protected under the lawyer-client privilege.<sup>78</sup> Although the regulatory acts governing professional ethics in Georgia do not explicitly use the term “professional privilege”, there is a distinction between professional privilege and confidentiality. Professional privilege benefits from a higher standard of protection. Specifically, privilege protects communications between a

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<sup>73</sup> Commentary on Article 90 - Obligations of secrecy, <[https://gdprhub.eu/Article\\_90\\_GDPR](https://gdprhub.eu/Article_90_GDPR)> [23.09.2025].

<sup>74</sup> Ibid.

<sup>75</sup> Giacompos, Butarelli and O’Flaherty, 2018, 71.

<sup>76</sup> CCBE (a), 2016, 9.

<sup>77</sup> Ibid.

<sup>78</sup> Gordon, 1993, 567.

lawyer and a client, which a lawyer may use only with the client's consent, whereas confidentiality safeguards other information obtained during case handling, subject to defined exceptions, including situations where client consent may not be required. Both professional privilege and confidentiality serve as mechanisms to ensure access to justice and the upholding of the rule of law.<sup>79</sup>

Privilege protects both current and prospective clients.<sup>80</sup> It covers the communication itself, not the facts conveyed by the client. The content of the communication, rather than the facts provided, falls under confidentiality protection.<sup>81</sup> Due to the principle of confidentiality, a client may waive privilege by voluntarily disclosing the communication.<sup>82</sup> It is also important to note that privilege does not protect communications outside the scope of the lawyer–client relationship.<sup>83</sup>

Thus, it can be concluded that professional privilege (information exchanged between lawyer and client) must not be interfered with, and the use of such information is determined by the client. By contrast, the principle of confidentiality establishes specific, limited exceptions within which a lawyer may act.

### 1.3 Exceptions to Interference with Confidentiality

#### 1.3.1 Self-Defense by the Lawyer

If the protection of confidentiality contributes to the effective functioning of the legal system, exceptions to this principle may be permitted to restore or support the system's operation.<sup>84</sup> Similarly, if confidentiality is essential to foster trust or privacy, an exception may be justified when retaining client information would undermine trust or allow the relationship to be misused to violate legal norms.<sup>85</sup>

One of the main arguments advanced by the PDPS when requesting information from lawyers is that such requests do not violate the principle of confidentiality because an exception exists: a lawyer may disclose confidential information for self-defense without the client's consent.<sup>86</sup> This exception allows a lawyer to reveal

<sup>79</sup> Union Internationale des Avocats, International report on professional secrecy and legal privilege, 2019.

<sup>80</sup> Northrop, 2009, 1487.

<sup>81</sup> Mueller, 2013, 6.

<sup>82</sup> Rice, 1998, 866.

<sup>83</sup> CCBE, 2019; Batts, 2020, 9.

<sup>84</sup> Martyn, 2003, 1329.

<sup>85</sup> *Ibid.*

<sup>86</sup> Decision №-1/414/2019 of the State Inspector PDPS, 17 December 2019; Decision №-1/121/2021 of the State Inspector PDPS, 26 April 2021.

otherwise protected information to safeguard their own interests.<sup>87</sup> Exceptions to confidentiality are allowed when a lawyer needs to defend themselves or when the legal system needs to function properly. A lawyer may disclose confidential information without the client's consent if there is a claim or allegation against them, and the information is essential for their self-defense. The exception must meet several conditions: there must be a claim or allegation against the lawyer, and the disclosure of information must be necessary for self-defense. This exception may extend to administrative proceedings before the PDPS, as the term "claim" is interpreted broadly to include various proceedings brought against a lawyer arising from their professional activities.<sup>88</sup>

The necessity of disclosure for self-defense includes both subjective and objective elements. Subjectively, the lawyer must act in good faith and consider the client's interests when using the information. The lawyer should reasonably believe that the information is relevant to defending against the claim, and assess its connection to the issues in dispute. Objectively, the information disclosed must be relevant to the resolution of the case. Since lawyers may use this exception for self-defense, its scope is limited to what is necessary for that purpose.<sup>89</sup>

When relying on this exception, a lawyer must carefully evaluate which information is necessary for self-defense and must avoid providing excessive details to the adjudicating authority.<sup>90</sup> Privileged information may not be disclosed, however, a lawyer may reveal information protected by confidentiality to the extent necessary to refute a claim, provided it is done in good faith and with due regard for the client's interests.<sup>91</sup>

Exceptions to confidentiality may be categorized into two types: (1) those arising from disputes between a lawyer and their client, and (2) those arising from interactions between a lawyer and third parties, including the state. The Professional Ethics Code does not specify which type of claim triggers a lawyer's right to self-defense, although this distinction carries significant practical implications. Depending on

<sup>87</sup> Levine, 1977, 783.

<sup>88</sup> Law of Georgia "On Lawyers", 20 June 2011, Art. 7(3)(G); Code of Professional Ethics of Advocates of Georgia, 15 April 2006, Art. 4 (4)(G).

<sup>89</sup> In the following cases before the Ethics Commission of the Georgian Bar Association, lawyers were found to have breached confidentiality standards due to the improper handling of information submitted in their defense during disciplinary proceedings: Decision N029/11 of 17 March 2011, Decision N001/12 of 17 March 2012, and Decision N060/14 of 1 March 2015.

<sup>90</sup> Decision N029/11 of the Ethics Commission of the Georgian Bar Association, 17 March 2011.

<sup>91</sup> Decision N001/12 of the Ethics Commission of the Georgian Bar Association, 17 March 2012.

whether the claim originates from the client or a third party, a lawyer's professional conduct may be regulated differently.

In cases examined by the PDPS,<sup>92</sup> where the standards for evaluating a lawyer's professional obligations were applied during requests for personal data, the claimant was typically the client's opposing party. The PDPS adopts a literal interpretation of the confidentiality exception, considering that a lawyer may use information obtained in the course of professional activity to defend against a claim. A systemic interpretation of confidentiality, however, emphasizes the protection of the client's interests and the need for the lawyer to act with the client's consent, given the lawyer's professional duty to restrict third-party access to information.

International practice illustrates varying approaches. Under the Model Code of Conduct for European Lawyers, the complainant may be a party other than the client.<sup>93</sup> The ABA Model Rules of Professional Conduct impose a higher standard for the use of confidential information in self-defense when a third party initiates proceedings against a lawyer.<sup>94</sup> Information disclosed for self-defense must not include privileged lawyer–client communications, although lawyers may use information concerning their own work, as the results of legal work relate to the lawyer and do not constitute a breach of confidentiality.<sup>95</sup>

Practice demonstrates that statutory exceptions serve to protect the client's right to representation, while the lawyer's right to self-defense remains discretionary rather than mandatory. This allows the lawyer to disclose client information only to the extent reasonably necessary to achieve a legitimate purpose under the exception.<sup>96</sup> Treating self-defense as a right, rather than an obligation, ensures that the overarching purpose of client confidentiality is preserved.<sup>97</sup> Lawyers must assess whether a particular case falls within the exception, consider the client's interests, and ensure that any disclosure is proportionate.

Accordingly, within the scope of this exception, the PDPS cannot require a lawyer to provide all requested information unconditionally. Professional standards interpretation is within the legal profession's jurisdiction, and any unilateral redefinition by the PDPS risks undermining professional self-regulation.

<sup>92</sup> Decision N8-1/414/2019 of the State Inspector PDPS, 17 December 2019; Decision N8-1/121/2021 of the State Inspector PDPS, 26 April 2021.

<sup>93</sup> CCBE, 2021, Model Article on Confidentiality (2.8).

<sup>94</sup> ABA, Model Rules of Professional Conduct, Rule 1.6 (5).

<sup>95</sup> Grimm et al., 2008, 442.

<sup>96</sup> Martyn, 2003, 1330.

<sup>97</sup> Ibid.

### **1.3.2 Does the Obligation to Report Suspicious Transactions under Anti-Money Laundering and Counter-Terrorism Laws Interfere with Legal Professional Privilege?**

The Personal Data Protection Service justifies interference with a lawyer's professional secrecy by relying on the European Court of Human Rights (ECtHR) case *Michaud v. France*. In *Michaud*, the Court examined whether French lawyers' obligation to report suspicious transactions to the authorities under anti-money laundering (AML) and counter-terrorism legislation constituted a disproportionate interference with legal professional privilege.<sup>98</sup>

The Personal Data Protection Service failed to make a factual comparison or detailed analysis, leading to the unjustified conclusion that, as obligations under AML laws can require lawyers to provide the state with client information in all types of service, the same approach could be used with the PDPS. In its decision, the PDPS, without conducting a comparative assessment or analysis of the factual circumstances relevant to the matter under consideration, directly cited a judgment of the European Court of Human Rights: "The Court found that the aforementioned obligation constituted an interference with the lawyer's right to respect for private life, which also encompasses professional and business activities. However, with regard to the legitimate aim pursued and the particular importance of the disclosure of information in a democratic society, the obligation to disclose such information did not constitute an interference with legal professional privilege." The Service subsequently concluded that the application of the same approach is permissible for the state when the Personal Data Protection Service requests information from a lawyer, but did not consider ECtHR's proportionality reasoning.

The European Court of Human Rights found that the interference was proportionate, relying on two principal considerations:

First, as the Conseil d'État observed when examining the applicant's complaint in administrative proceedings, lawyers are subject to the obligation to report suspicious transactions only in limited circumstances: when they represent a client in financial or real estate-related business activities, or act as trustees, and when they assist clients in certain specifically defined transactions. The reporting obligation is therefore linked to the purpose of the lawyer's involvement in such activities. In this respect, the obligations imposed on lawyers are comparable to those applicable to other professionals participating in financial or commercial transactions, and do not

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<sup>98</sup> *Michaud v. France* [ECtHR], App. No. 12323/11, 06 March 2013.

relate to the role performed by lawyers in defending their clients. Moreover, French legislation provides for an exception whereby lawyers are exempt from the reporting obligation where their activities concern the provision of legal advice or representation in judicial proceedings, irrespective of whether the relevant information was obtained before, during, or after the proceedings. This exception also covers legal advice provided to a client regarding the institution or avoidance of judicial proceedings. The exemption does not apply, however, where the advice is given for money laundering or terrorist financing, or where the lawyer knows that the client intends to use the advice for such purposes. On this basis, the Court concluded that the obligation to report suspicions does not affect the most fundamental aspect of the lawyer's defense role, which constitutes the core justification for legal professional privilege.

Secondly, the Court took into account the existence of a filtering mechanism designed to safeguard legally privileged information. Lawyers are not required to transmit information directly to Tracfin; rather, such information is first communicated to the President of the Bar Council of the Conseil d'État and the Court of Cassation, or to the president of the Bar Association to which the lawyer belongs. In this process, a fellow lawyer elected by members of the profession, whose receipt of such information cannot be regarded as a breach of professional secrecy, is best placed to determine whether the information is protected by legal professional privilege. Where the information is not protected and the statutory conditions are satisfied, it is subsequently transmitted to Tracfin.

The Court also emphasized the particular role played by the presidents of bar associations in safeguarding professional secrecy, and referred to several of its earlier judgments in which this issue had been addressed. Accordingly, *Michaud v. France* cannot be applied to lawyers compelled to disclose client information during legal representation for the above-mentioned two primary reasons:

1. The ECtHR did not find a violation of Article 8 of the Convention regarding confidentiality, as the reporting obligation did not concern the lawyer's role as a defender. Professional privilege remained protected. The obligation applied only to tasks undertaken by lawyers that were similar to those of other professionals subject to AML requirements, not to activities performed in the course of defending their clients.
2. The French legislation included protective confidentiality measures: lawyers reported not directly to the authorities but to the president of the Bar Associ-

ation. The Bar Association reviewed the information, assessed any suspicion within the scope of attorney-client privilege, and transmitted it to the state only when both criteria were met. This intermediary role ensured the protection of professional secrecy and maintained trust in the legal profession.<sup>99</sup>

Accordingly, *Michaud v. France* reinforces the protection of the lawyer-client privilege and emphasizes that disclosure by a lawyer must comply with established legal procedures. The regulatory framework governing suspicious transaction reporting aligns with confidentiality principles<sup>100</sup> and differs fundamentally from situations where a lawyer is compelled to provide information to the PDPS. In the latter cases, where the PDPS alleged that lawyers failed to provide the information, the lawyers were representing clients in administrative and civil matters unrelated to money laundering. Since classical legal representation does not entail interference with professional privilege, the PDPS's reliance on *Michaud* as a justification for exceptions to professional secrecy in these cases is inappropriate and, therefore, the PDPS has incorrectly applied the *Michaud* ruling in its cases to justify the exception.

## 2. Limitation of the General Powers of the Supervisory Authority

A key characteristic of the legal profession is self-regulation.<sup>101</sup> Accordingly, lawyers, as a professional group, oversee the conduct of their members independently, without interference from the state.<sup>102</sup> Self-regulation functions as a form of social contract: a public privilege exercised in the interest of protecting public values.<sup>103</sup> Part of safeguarding public interests includes establishing mandatory professional standards for lawyers, which are enforced internally by the profession itself.

Within this framework of professional self-regulation, supervisory authorities may request the disclosure of confidential information from a lawyer during investigative proceedings, in accordance with Article 58(1) of the GDPR.<sup>104</sup> To address potential conflicts between GDPR compliance and professional confidentiality obligations, Article 90 of the GDPR was introduced. This provision allows member states to

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<sup>99</sup> Ibid.

<sup>100</sup> Tsereteli, Khubuluri and Shalamberidze, 2015, 32.

<sup>101</sup> Green, 2013, 602.

<sup>102</sup> Moliterno and Harris, 2007, 34.

<sup>103</sup> Gordon, 1988, 6.

<sup>104</sup> General Data Protection Regulation (GDPR), Article 90 – Obligations of Secrecy.

establish rules enabling lawyers to simultaneously protect professional secrecy and personal data.<sup>105</sup> For lawyers, professional associations may adopt specific rules to safeguard confidentiality, thereby limiting the investigatory powers of supervisory authorities over personal data protection, while ensuring that both legal ethics and data protection standards are respected.<sup>106</sup>

According to these recommendations, professional associations should request that their national authorities limit supervisory bodies' powers to access data held by lawyers, including during searches of offices, and adopt specific rules regulating supervisory authorities' powers over lawyers, as provided under Article 58 of the GDPR.

The Council of Bars and Law Societies of Europe (CCBE)<sup>107</sup> has adopted recommendations for lawyers which national bar associations are expected to implement to protect professional secrecy when regulating personal data protection.<sup>108</sup> According to these recommendations, professional associations should request that their national authorities limit supervisory bodies' powers to access data held by lawyers, including searches of offices, and adopt specific rules regulating supervisory authorities' powers over lawyers, as provided under Article 58 of the GDPR. The role of the bar association in interactions with supervisory authorities should also be clearly defined. Supervisory authorities should obtain the association's consent before requesting information protected by professional secrecy, and before conducting searches of offices or technical equipment. To obtain such consent, the supervisory authority must provide the reasons for the request, and present measures that will be carried out to protect the confidentiality of any personal data obtained.<sup>109</sup>

It should be noted that, to date, the Georgian Bar Association has not implemented measures under Article 90 of the GDPR. The current draft amendments to the Law of Georgia on Lawyers do not provide for limitations on supervisory authorities' powers, nor for the regulation of ethical obligations when requesting personal data from lawyers. It is therefore advisable that the Georgian Bar Association take measures to protect lawyers' rights in dealings with supervisory authorities. Any re-

<sup>105</sup> Commentary on Article 90 – Obligations of Secrecy <[https://gdprhub.eu/Article\\_90\\_GDPR](https://gdprhub.eu/Article_90_GDPR)> [25.05.2023].

<sup>106</sup> Ibid.

<sup>107</sup> Represents the bar associations and law societies of 32 member countries, as well as 13 additional associated and observer countries (including the Georgian Bar Association).

<sup>108</sup> CCBE (b), 2016.

<sup>109</sup> Ibid.

quests for personal data must not lead to deviations from professional standards, even when the supervisory authority acts to enforce the law.

## IV. Conclusion

The interest in protecting personal data may, at times, conflict with higher public interests, including the right to defense, the presumption of innocence, and the right to a fair trial. In this context, the Law of Georgia on Personal Data Protection should be interpreted in a manner that does not restrict a lawyer in the exercise of their professional activities, while simultaneously safeguarding these fundamental principles of justice. The state has an obligation to ensure the protection of personal data; however, a lawyer's professional secrecy constitutes a fundamental element of the rule of law.

The approach adopted by the PDPS, which evaluates a lawyer's conduct as a data processor and requests information without considering professional ethical standards or assessing the lawyer's obligations, creates legal challenges, and constitutes interference in professional legal practice. Nevertheless, this potential conflict is not irreconcilable, as both the protection of professional secrecy and the provision of personal data to supervisory authorities can coexist as essential components of a democratic society governed by the rule of law.

It is therefore important that the Law of Georgia on Personal Data Protection clearly regulates oversight of personal data in a way that does not undermine the client's right to access a fair trial. Information shared with a lawyer should remain confidential, and the client, the owner of the information, should retain control over how and to what extent the lawyer may use it. It is advisable to consider the mechanisms provided under Article 90 of the GDPR, and for professional associations to adopt rules that clearly define the supervisory authority of the PDPS over lawyers, thereby enabling lawyers to maintain professional secrecy while ensuring the protection of personal data. To achieve these objectives, the following recommendations are proposed:

**Develop a Standard for Evaluating Professional Obligations:** A standard should be established for assessing a lawyer's professional obligations when handling requests for information containing personal data. This standard should regulate the processing, protection, and disclosure of such information in light of both the principle of legality and the principle of professional secrecy. Information protected by professional privilege or confidentiality should be distinguished from other informa-

tion, and any determination of a violation should be limited to information outside the scope of professional activity;

**Amend the Law on Lawyers:** Legislative amendments should be introduced to the Law on Lawyers, specifically, by adding a provision to Article 7, with the following wording: “12. A lawyer shall provide information obtained in the course of professional activity to the PDPS during ongoing proceedings only if such disclosure does not contravene the legislatively defined principle of professional secrecy”;

**Develop Internal Rules for Lawyers:** The Georgian Bar Association should prepare clear rules for the processing and protection of personal data by lawyers, thereby facilitating compliance with professional standards while adhering to the law;

**Enhance Continuing Legal Education:** Lawyers should receive ongoing training on the scope of supervision by the PDPS, the processing of personal data, and the standards for assessing professional obligations. This will ensure transparency regarding the boundaries of a lawyer’s actions and the legal consequences when responding to requests for information containing personal data.

## References

- Bakhsoliani S., The Personal Data Protection System in Georgia, *Journal My Lawyer*, No. 7, 2022.
- Batts J., Rethinking Attorney-Client Privilege, *The Georgetown Journal of Legal Ethics*, Vol. 33, No. 1, 2020.
- Besemer L., *Privacy and Data Protection based on the GDPR*, Van Haren Publishing, 2020.
- Crystal N. M., Confidentiality under the Model Rules of Professional Conduct, *University of Kansas Law Review*, Vol. 30, No. 2, 1982.
- Fischel D. R., Lawyers and Confidentiality, *University of Chicago Law Review*, Vol. 65, No. 1, 1998
- Gugava N., Standards for the Protection of Special Categories of Personal Data in the Georgian Public Sector and International Experience, Tbilisi, 2017.
- Goshadze K., *The Fundamental Right to Personal Data Protection*, Tbilisi, 2020.
- Gasitashvili E., Khubuluri T., Bochorishvili K., Kvachantiradze D., *Activity of the Ethics Commission: Precedents and Recommendations 2010-2013*, Tbilisi, 2013.
- Gasitashvili E., Zambakhidze T., Kordzakhia I., Loria A., Meskhishvili K., Moliterno J., Khubuluri T., *Legal Ethics*, Tbilisi, 2021.
- Grimm P. W., Berman M. D., Wharton L., Beck J., Crowley C. R., Discovery about Discovery: Does the Attorney-Client Privilege Protect All Attorney-Client Communications Relating to the Preservation of Potentially Relevant Information?, *University of Baltimore Law Review*, Vol. 37, No. 3, 2008.
- Gordon J. H., Privileged and Confidential Information, *Memphis State University Law Review* 23, Vol. No. 3, 1993.
- Gordon R. W., The Independence of Lawyers, *Boston University Law Review*, Vol. 68, No. 1, 6, 1988.
- Green B., Lawyers’ Professional Independence: Overrated or Undervalued, *Akron Law Review* 46, No. 3, 2013.
- Giacomulos K., Butarelli J., O’Flaherty M., *Handbook of European Data Protection Law*, Luxembourg, 2018.

- Khandashvili I., Turazashvili, G., *The Profession of a Lawyer*, Tbilisi, 2018.
- Khubuluri T., *Activity of the Ethics Commission: Precedents and Recommendations 2014–2016*, Tbilisi, 2016.
- Kvachadze M., Gasitashvili, E., Bochorishvili, K., Kordzakhia, I., *Commentaries on the Lawyers’ Professional Ethics Code Based on the Practice of the Ethics Commission*, Tbilisi, 2011.
- Levine H. D., *Self-Interest or Self-Defense: Lawyer Disregard of the Attorney-Client Privilege for Profit and Protection*, Hofstra Law Review, Vol. 5, No.2, 1977.
- Myers E. W., *Examining Independence and Loyalty*, Temple Law Review, Vol. 72, No. 4, 1999
- Martyn S., *In Defense of Client-Lawyer Confidentiality. . . And Its Exceptions . . .*, Nebraska Law Review, Vol. 81, No. 4, 2003.
- McChrystal M. K., *Lawyers and Loyalty*, William and Mary Law Review, Vol. 33, No. 2, 1992
- Mueller C.B., *Federal Evidence § 5:33 Waiver of Privilege – Voluntary Disclosure or Failure to Claim*, George Washington Law Faculty Publications & Other Works, No. 4, 2013.
- Moliterno J., Harris J., *Global Issues in Lawyers’ Professional Ethics*, American Casebook Series, 2007.
- Northrop D., *The Attorney-Client Privilege and Information Disclosed to an Attorney with the Intention that the Attorney Draft a Document to Be Released to Third Parties: Public Policy Calls for at Least the Strictest Application of the Attorney-Client Privilege*, Fordham Law Review, Vol. 78, No.3, 2009.
- Pizzimenti L. A., *The Lawyer’s Duty to Warn Clients about Limits on Confidentiality*, Catholic University Law Review, Vol. 39, No. 2, 1990.
- Professional Legal Ethics: A Comparative Perspective*, edited by M. Goldstein Bolocan, CEELI Concept Paper Series, Washington, 2002.
- Rice P. P., *Attorney-client Privilege: The Eroding Concept of Confidentiality Should Be Abolished*, Duke Law Journal, Vol. 47, No. 5, 1998.
- Richmond D. R., *Lawyers’ Right of Professional Self-Defense and Its Limits*, South Carolina Law Review, Vol. 74, No. 2, 2022.
- Tsereteli K., Khubuluri T., Shalamberidze A., *Manual for Lawyers on Preventive Measures against Money Laundering*, Tbilisi, 2015.
- Zacharias F. C., *Rethinking Confidentiality*, Iowa Law Review, Vol. 74, No. 2, 1989.

### Legal Acts

- Law of Georgia “On Amendments to the Law of Georgia “On Personal Data Protection”, 17 December 2025.
- Law of Georgia “On Personal Data Protection”, 14 June 2023.
- Law of Georgia “On Lawyers”, 20 June 2001.
- Code of Professional Ethics of Advocates of Georgia, 15 April 2006.
- Regulation (EU) 2016/679 of the European Parliament and of the Council “On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation), 27 April 2016.
- American Bar Association (ABA), *Model Rules of Professional Conduct*, 1983.

### Case Law of Georgian Courts

- Decision Nბბგ-32-19 of the Supreme Court of Georgia, Disciplinary Chamber, 15 January 2020.
- Decision N4/8707-18 of the Administrative Cases Panel of the Tbilisi City Court, 26 October 2018.

## Case Law of the European Court of Human Rights

Michaud v. France [ECtHR], App. no.12323/11, 06 March 2013.  
 X v Switzerland [ECtHR], App. No.9/27/80, 23 September 1992.  
 Brandstetter v Austria [ECtHR], App. no. 11170/84, 12876/87 and 13468/87, 28 August 1991.  
 X v The United Kingdom [ECtHR], App. no 7215/75, 5 November 1981.

## Decisions and Recommendations

of the State Inspector PDPS, and Ethics Commission of the Georgian Bar Association  
 Decision N001/12 of the Ethics Commission of the Georgian Bar Association, 17 March 2012.  
 Decision N010/10 of the Ethics Commission of the Georgian Bar Association, 22 June 2010.  
 Decision N025/13 of the Ethics Commission of the Georgian Bar Association, 16 April 2014.  
 Decision N029/11 of the Ethics Commission of the Georgian Bar Association, 17 March 2011.  
 Decision N048/15 of the Ethics Commission of the Georgian Bar Association, 18 April 2018.  
 Decision N060/14 of the Ethics Commission of the Georgian Bar Association, 1 March 2015.  
 Decision N082/18 of the Ethics Commission of the Georgian Bar Association, 20 February 2019.  
 Decision N106/12 of the Ethics Commission of the Georgian Bar Association, 31 March 2010.  
 Decision N118/18 of the Ethics Commission of the Georgian Bar Association, 24 July 2019.  
 Decision N157/13 of the Ethics Commission of the Georgian Bar Association, 20 February 2013.  
 Decision N164/13 of the Ethics Commission of the Georgian Bar Association, 16 July 2014.  
 Decision Nგ-1/121/2021 of the State Inspector PDPS, 26 April 2021.  
 Decision Nგ-1/137/2020 of the State Inspector PDPS, 21 April 2020.  
 Decision Nგ-1/414/2019 of the State Inspector PDPS, 17 December 2019.  
 Decision Nგ-1/575/2018 of the State Inspector PDPS, 17 October 2018.  
 Recommendation N007/18 of the Ethics Commission of the Georgian Bar Association, 17 July 2018.  
 Recommendation N017/13 of the Ethics Commission of the Georgian Bar Association, 27 September 2013.

## Letters, Reports and Recommendations

Letter No. 3-0154/7028830 of the Tbilisi City Court, 24 March 2023.  
 Letter NPDPS 8 23 00001885 of the PDPS, 20 March 2023.  
 IDFI (Institute for Development of Freedom of Information), Brief Overview of Recent Developments in the Field of Personal Data Protection, Tbilisi, 2021.  
 The Council of Bars and Law Societies of Europe (CCBE) Model Code of Conduct for European Lawyers, 2021. <[https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/DEONTOLOGY/DEON\\_CoC/EN\\_DEONTO\\_2021\\_Model\\_Code.pdf](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/DEONTOLOGY/DEON_CoC/EN_DEONTO_2021_Model_Code.pdf)> [29.09.2025].  
 The Council of Bars and Law Societies of Europe (CCBE) (a), Recommendations “On the Protection of Client Confidentiality within the Context of Surveillance Activities”, 2016.  
 <[https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/SURVEILLANCE/SVL\\_Guides\\_recommendations/EN\\_SVL\\_20160428\\_CCBE\\_recommendations\\_on\\_the\\_protection\\_of\\_client\\_confidentiality\\_within\\_the\\_context\\_of\\_surveillance\\_activities.pdf](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/SURVEILLANCE/SVL_Guides_recommendations/EN_SVL_20160428_CCBE_recommendations_on_the_protection_of_client_confidentiality_within_the_context_of_surveillance_activities.pdf)> [29.09.2025].

The Council of Bars and Law Societies of Europe (CCBE) (b) Recommendations “Regarding the Implementation of the General Data Protection Regulation (GDPR)”, 2016. <[https://www.ccbe.eu/fileadmin/speciality\\_distribution/public/documents/IT\\_LAW/ITL\\_Guides\\_recommendations/EN\\_ITL\\_20161202\\_CCBE\\_Recommendations\\_regarding\\_the\\_implementation\\_of\\_the\\_GDPR.pdf#:~:text=This%20paper%20addresses%20the%20various,to%20ensure%20compliance%20with%20the](https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/IT_LAW/ITL_Guides_recommendations/EN_ITL_20161202_CCBE_Recommendations_regarding_the_implementation_of_the_GDPR.pdf#:~:text=This%20paper%20addresses%20the%20various,to%20ensure%20compliance%20with%20the)> [29.09.2025].

The Council of Bars and Law Societies of Europe (CCBE) Recommendation “On the Protection of Fundamental Rights in the Context of National Security”, 2019.

Union Internationale des Avocats, International report on professional secrecy and legal privilege, 2019. <[https://www.adwokatura.pl/admin/wgrane\\_pliki/file-international-report-professional-secrecy-30057.pdf](https://www.adwokatura.pl/admin/wgrane_pliki/file-international-report-professional-secrecy-30057.pdf)> [23.09.2025].

Report of the Personal Data Protection Inspector, 2013-2014.

Recommendation No. R(2000)21 of the Committee of Ministers to Member States *on the Freedom of Exercise of the Profession of Lawyer*, 2000.

### Online Sources

Public Statement of the Georgian Bar Association - “Appeal of the Bar Association to the State Inspectorate Service”, 25 December 2019, <<https://gba.ge/ka/>> [23.09.2025].

ECtHR, Factsheet – Legal Professional Privilege, June 2024. <[https://www.echr.coe.int/Documents/FS\\_Legal\\_professional\\_privilege\\_ENG.pdf](https://www.echr.coe.int/Documents/FS_Legal_professional_privilege_ENG.pdf)> [23.09.2025].

Public Statement of the Georgian Parliament, 17 December 2025 <<https://parliament.ge/media/news/antikoruftsiuli-biuro-da-personalur-monatsemta-datsvis-samsakhuri-2026-tslis-2-marts-gaukmdeba>> [03.03.2026].