

Inviolability of the Private Life of a Child in Conflict with the Law and the Protection of Their Personal Data

The inviolability of the private life of a child in conflict with the law presents a challenging issue, making it crucial to balance the legitimate objectives established by law. The state bears a number of obligations to provide sufficient guarantees for the protection of children's rights.

In this regard, the provisions of the Juvenile Justice Code and the Law of Georgia “On Personal Data Protection” are particularly noteworthy. These laws emphasize the importance of shielding children in conflict with the law from stigmatization and ensuring their smooth reintegration into society. Achieving these goals requires the implementation of complex, practical measures that safeguard their rights while adhering to data protection standards.

Keywords: *Child in Conflict with the Law, Stigmatization, Personal Data, Privacy, resocialization, Professional Ethics.*

1. Introduction

The inviolability of a child’s personal data must be safeguarded at all stages of the criminal justice process, in line with EU data protection principles. Central to juvenile justice is the goal of fostering the child’s reintegration and positive resocialization into society. Achieving this, however, is challenging. When a child commits a criminal offense, even a serious one, society may often overlook the child’s age, favoring a punitive approach that conflicts with the values of a democratic society. Equally, protecting child victims from secondary victimization is essential to uphold their dignity and emotional well-being.

Juvenile justice, in this regard, is particularly complex. Its practical implementation demands careful consideration, as determining what constitutes a proportionate response for a child can be challenging.

The handling of cases involving a child in conflict with the law is marked by distinct considerations and often conflicts with the right to public trial, as well as the rights to freedom of expression and access to information.

The right to privacy is a broad and evolving concept, not fully encompassed by the numerus clausus principle. This article aims to explore the complex legal issues surrounding

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minors' privacy in juvenile justice and to assess the positive impact of the law of Georgia on Personal Data Protection in this context.

2. Protecting the privacy Child in Conflict with the Law

The Constitution of Georgia recognizes and guarantees human rights, with the right to personal life holding particular significance. Personal life encompasses not only an individual's inner world but also their ability to engage with the external environment. The inviolability of personal life is essential for the healthy development and sustainability of society.¹ Consequently, any exploitation of this right for personal gain or political purposes is strictly prohibited. The right to privacy is a fundamental value that permeates everyday life and stands as one of the cornerstones of a democratic society. In an era of rapid technological advancement, where progress continually reshapes our external environment, the right to privacy takes on new dimensions.

Article 15 of the Constitution of Georgia safeguards an individual's right to the inviolability of personal and family life, personal space, and communication. This right inherently transcends the confines of a single constitutional article. Consequently, both the European Court of Human Rights and the Constitutional Court of Georgia recognize that the fundamental significance of the right to privacy is tied to its multifaceted nature. This includes considerations related to race or ethnicity, beliefs and convictions, as well as biometric or genetic information. However, it is impossible to exhaustively enumerate all aspects of this right in advance.²

The protection of the right to private life is particularly crucial when it comes to minors. Interactions involving children necessitate a special approach, especially from a justice perspective, and legal regulations must reflect a comprehensive understanding of these factors. In recent years, the field of minors' rights protection has undergone significant transformation. Historically, minors were not recognized as having independent rights, but the "Geneva Declaration", adopted in the 1920s, marked a significant turning point. Subsequent developments have further advanced this field. Thus, it is important to examine the progress we have made and how current legislation safeguards the personal lives of minors.

Children's rights, including the right to privacy, are easily susceptible to violation. Therefore, society holds the primary responsibility for protecting children's interests and promoting the safeguarding of their rights.

The first significant step taken to protect children's rights was the Geneva Declaration, which enabled the recognition of children's rights and emphasized several crucial aspects³, including child development, support, protection, and overall well-being. This declaration laid the groundwork for the adoption of the United Nations' Declaration of the Rights of the Child in 1959, which established the standard of the "best interests of the child". In 1985, the so-called "Beijing Rules" were introduced, addressing key issues related to the administration of juvenile justice. These rules helped prevent the stigmatization of minors by prohibiting the

¹ Ivanidze M., *A minor and his/her best interests, analysis of the legislation of minors and judicial practice*, Tbilisi, 2017, 545.

² Gogniashvili N., *The importance of personal life protection and its specificity in relation to a minor*, *Georgian German Law Journal*, 2023, 3.

³ Imerlishvili I., *Minor's rights: international experience and the current situation in Georgia*, in the collection: *Protection of human rights, constitutional reform and the rule of law in Georgia*, Tbilisi, 2017.

disclosure of identifying information about them by the media and public institutions. In 1989, the “Convention on the Rights of the Child” was adopted, which has since been ratified by 195 countries worldwide. The United Nations subsequently adopted several supporting instruments for the Convention, aimed at creating more accessible standards and providing guidelines for professionals engaged in this field.⁴

Equally significant are the “Havana Rules,” adopted in 1990, which outline essential principles of juvenile justice. This document emphasizes that the juvenile justice system should incorporate rights and guarantees that promote the physical and mental well-being of young individuals. The treatment of juveniles accused or convicted of offenses must differ from that of adults in similar situations. This distinction is based on several grounds: a child is considered less responsible for their actions, with their level of responsibility increasing with age; compared to adults, children who commit crimes are generally more amenable to rehabilitation and can learn alternative behaviors; and young individuals placed in pre-trial detention or prisons are particularly vulnerable to violence and abuse, making it more difficult for them to defend themselves. Additionally, the UN’s “Riyadh Guidelines” represent a critical framework for addressing crimes committed by minors. These guidelines stress the importance of engaging youth in legal, socially beneficial activities while fostering a humane attitude toward society.⁵

International standards affirm that children, unlike adults, possess the right to full respect for their privacy at all stages of legal proceedings. The Committee on the Rights of the Child, in its General Comment 10, emphasizes that “all stages of case management” begin with the first contact with law enforcement authorities, including requests for information and identification, and extend to supervision or detention.⁶

The purpose of the right to respect for private life is to prevent the harm that may be caused to the child by unjustified publicity of the case. Negative publicity can stigmatize the child and have a negative impact on the child's ability to get an education, find a job and a place to live, as well as his reintegration in general⁷. The Committee on the Rights of the Child interpreted the right to privacy of children in conflict with the law in a broad sense. States should make clear in their legislation that when a child is tried for a crime, the hearing must be held in camera.⁸

The principle and purpose of the disclosure ban are clearly articulated in Section 102 of the Uganda Children’s Act (1996), which aims “to protect the right to respect for private life and to limit publication.” A child's right to privacy must be upheld throughout the judicial process to prevent undue publicity, and no individual should publish any information regarding a child before the Family and Children's Court that could lead to the child's identification. Furthermore, any person who violates the provisions protecting and limiting this right may be subject to fines and penalties.⁹

⁴ Gogniashvili N., *The importance of personal life protection and its specificity in relation to a minor*, *Georgian German Law Journal*, 2023, 3.

⁵ Eremadze St., *Basic rights for freedom*, book two, *Iliia State University Publishing House*, 2021, 201.

⁶ *Committee on the Rights of the Child, General Comment N10 (2007); paragraph 64.*

⁷ *Rule 8 of the Beijing Rules. See also Committee on the Rights of the Child General Comment N10 (2007); paragraph 64.*

⁸ *Hamilton K., Guidelines for Juvenile Justice Law Reform, 2011, at 88.*

⁹ *See Uganda Children Act, 1996, Sec. 102.*

The legal framework for the data protection of minors in conflict with the law in national legislation is still in the process of being established and refined. Part 2 of Article 13 of the Code of Juvenile Justice of Georgia, which is somewhat ambiguous, directs us to the law “On Personal Data Protection”. However, the processing of personal data concerning minors in conflict with the law is further complicated by various subordinate normative acts. Each public institution, from investigative bodies to penitentiary facilities, determines, on a case-by-case basis, what data is processed, how long it is stored, and the method of destruction. These regulations do not provide adequate guarantees for protecting a minor's right to personal data and privacy, as the subordinate legal acts governing this issue are often incomplete¹⁰.

In accordance with international standards, it is essential that “special requirements” are integrated into legislation to ensure that the needs of children are appropriately addressed. Such “special requirements” include respecting the minor's right to private life throughout all stages of case proceedings. Legislation must explicitly prohibit the disclosure of the identity of a minor in conflict with the law by individuals present at the hearing. From this perspective, it is crucial to establish a robust legal safeguard to protect the right of a minor to private life. The study revealed that the national legal framework governing children's rights does not contain a specific prohibition on media representatives disclosing the identity of children involved in the juvenile justice system. The Code on the right of the Child¹¹ includes a dedicated article that addresses the protection of minors' personal data by the media. However, this provision does not apply to cases of criminal and administrative offenses, as the Code indicates that these matters are regulated by the Juvenile Justice Code. However, the Juvenile Justice Code lacks specific provisions regarding the protection of minors' personal data by the media.

To address this issue, it is recommended to strengthen the mechanisms for responding to breaches of professional ethics by journalists within the framework of self-regulation, enabling effective responses to violations through disciplinary measures. Furthermore, since instruments for the protection of children's rights necessitate stricter actions against journalists who significantly infringe on the right to private life of minors, establishing an appropriate legal framework is imperative. Notably, Croatia has introduced a specific article in its Criminal Code to protect the right to private life of minors, which enables criminal prosecution of individuals who infringe on a child's right to private life by disclosing photos or other identifiable details, especially if such disclosure has subjected the child to ridicule from peers or otherwise endangered the child's well-being. Additionally, if such actions are committed by a public official or media representative, it constitutes an aggravating circumstance.

3. Protection of a Minor from Labeling

The phenomenon of labeling is prevalent. An illustrative example of this is Robert Rosenthal's study, which suggests that poor and minority students underperform in school

¹⁰ Kvrivishvili T., *Guarantees of protection of the right to private life of a minor in conflict with the law in juvenile justice, dissertation (TSU), 2022, 47.*

¹¹ Shekhladze Kh., *Prioritizing the best interests of a minor in conflict with the law in the process of juvenile justice (criminal proceedings), Tbilisi, 2019.*

due to teachers' low expectations, resulting in treatment that assumes a lack of talent. This, in turn, fosters the very behaviors that teachers anticipate.¹²

Labeling theory posits that deviance is defined not by specific actions but by society's perception of the individual. From this perspective, deviance is shaped by reactions rather than behaviors. Labeling theory describes the following stages in the development of a criminal identity: 1) committing an initial offense; 2) difficulties in reintegrating the offender into society; 3) the offender's acknowledgment of their status; 4) formation of a criminal identity; and 5) committing subsequent offenses.

According to labeling theory, deviant behavior can result from various factors, but once an individual is labeled as deviant, they often face additional challenges linked to societal responses and stereotypes¹³. The theory primarily explores the consequences of being labeled as deviant: 1) Labeling an individual as deviant increases the likelihood of future deviant behavior. This label creates a barrier between the individual and society; furthermore, the deviant label acts as a "qualification" that shapes how society evaluates the individual. Society perceives the person as deviant overall, not just in a specific context, which fosters expectations of further deviance and subsequent treatment accordingly. For example, a person labeled a "thief" may no longer be trusted, even after serving their sentence, as friends might avoid them due to fears of theft or association with a damaged reputation. 2) This approach limits the labeled individual's chances for a normative life, often leading them to adopt a deviant lifestyle or career. Labeled individuals frequently identify with others who have received similar labels, forming close ties and demonstrating solidarity.¹⁴

Labeling theory suggests that this process contributes to secondary deviance, as well as a "self-fulfilling prophecy" – a phenomenon whereby an anticipated event creates conditions for its own realization. In this case, societal expectations about an individual's deviant future behavior contribute to the manifestation of that behavior.

From this review of labeling theory, it can be concluded that stigmatizing a juvenile as delinquent can significantly impact their future¹⁵. If information regarding a juvenile's conviction is not kept confidential, this labeling, rather than incarceration alone, may result in more detrimental outcomes. This could lead to peer rejection and association with others who possess deviant self-concepts, heightening the juvenile's risk of reoffending. For these reasons, safeguarding the right to privacy throughout the juvenile justice process to prevent disclosure and stigmatization is essential.

4. Reporting on Juvenile Cases

The right to freedom of expression is a guaranteed right for all individuals. It encompasses the right to hold opinions, the right to receive and impart information and ideas

¹² *Rosenthal, L. Jacobson, Pygmalion im Unterricht. Lehrererwartungen und Intelligenzentwicklung der Schüler.* Beltz 1983. S.129

¹³ *Kvrivishvili T., Guarantees of protection of the right to private life of a minor in conflict with the law in juvenile justice, dissertation (TSU), 2022, 56.*

¹⁴ *Akhalashvili N., Legal Psychology, Tbilisi, 2009, 244.*

¹⁵ *Shalikhshvili M., Miknadze G., Juvenile justice (manual), second edition, Tbilisi, Freiburg, Strasbourg, 2016, 48.*

without interference from public authorities. However, states retain the authority to impose licensing requirements on broadcasters, television stations, or film enterprises.¹⁶

This right is a fundamental element of a democratic society, essential for societal progress and the self-realization of individuals. The scope of freedom of expression extends beyond favorably regarded or neutral information and ideas and includes content that may be offensive, shocking, or disturbing.

Media representatives are regarded as public watchdogs who play a pivotal role in democratic society. They are tasked with disseminating information and informing the public on matters of public interest, which the public has a right to receive¹⁷. A journalist's freedom of expression is not absolute; it carries both rights and responsibilities. In this context, "rights" refer to the journalist's prerogative to perform professional duties and report on matters of public interest, while "responsibilities" entail the journalist's duty to act in good faith and provide accurate and reliable information in line with journalistic ethics.¹⁸

Journalists are required to verify facts before publication; however, this requirement does not apply when reporting opinions or conveying points of view¹⁹. Nevertheless, opinions should also be grounded in a factual basis. The role and influence of the media on juvenile justice is evident in three areas: the media's influence on children, its role in shaping juvenile legislation, and its impact on the juvenile justice process.²⁰

It is crucial to emphasize that, when covering court proceedings, judicial personnel are expected to demonstrate competence and responsibility in the legal field. This standard also applies to representatives of the media, thereby upholding the respect and integrity of their profession²¹. This requirement becomes even more pertinent given the heightened attention on cases involving minors.²²

There exists a balance between two competing rights: freedom of expression and the inviolability of a minor's private life. Freedom of expression is not an absolute right. The Constitutional Court of Georgia has established that restrictions on freedom of expression are permissible based on the principle of proportionality, provided they adhere to formal legal requirements and serve clearly defined legitimate objectives.²³

Numerous international and European instruments establish standards for media coverage involving minors in conflict with the law. The "Beijing Rules" deem it inadmissible for the media to publish information about minors involved in legal conflicts. The guidelines on "child-friendly justice" provide detailed measures for safeguarding the privacy of minors when informing the public through the media. Necessary measures include, among others, granting anonymity or pseudonyms to minors, concealing identities by altering voices,

¹⁶ Danelia N., *Coverage of children's issues in the Georgian television space*, Media Development Fund, Tbilisi 2011, 38.

¹⁷ Khidesheli S., *Protection of children's rights in the media – an important aspect of the formation of a democratic state*, in the collection: *Protection of human rights and democratic transformation of the state*, Korkelia K. (ed.), Vol., 2020, 37.

¹⁸ Gotsiridze E., *Freedom of expression in the context of fair balancing of conflicting values*, Tbilisi., 2007. 27.

¹⁹ Goshadze K., *Basic right to personal data protection*, 2020. 102.

²⁰ Jorbenadze S., Bakhtadze U., Macharadze Z., *media law*, Jorbenadze S. (ed.), Vol., 2014, 59.

²¹ Alvarti H., *The principle of publicity according to the German criminal law process*, in the collection: *The influence of European and international law on Georgian criminal procedural law*, Tumanishvili G., Jishkariani B., Shrami E. (ed.), vol., 2019, 437-438

²² I. Sarkeulidze, *Juvenile crime and its causes in juvenile justice systems*, Law Journal, No. 2, 2013.

²³ Decision No. 2/6/1311 of the Constitutional Court of Georgia dated December 17, 2019 in the case of "Stereo+ LLC", Luka Severin, Lasha Zilfimiani, Robert Khakhalev and Davit Zilfimiani against the Parliament of Georgia and the Minister of Justice of Georgia.

removing names or other identifiable details from documents, and prohibiting any form of recording (photo, audio, and video). Additionally, the guidelines allow for an exception to this rule in specific circumstances where the publication of identifying information is in the best interest of the child and where disclosing certain case details would yield beneficial outcomes for the minor.

The “Code on the rights of the Child,” adopted by the Parliament of Georgia in 2019, establishes the legal framework for safeguarding the fundamental rights of children and supporting the child welfare system. This code includes a specific article regulating the protection of minors’ personal data by the media. Under the first part of Article 71, the media is prohibited from disclosing the personal data of a child involved in administrative or court proceedings, preventing both direct and indirect identification. The second part of this article further prohibits, among other things, the disclosure of documents or records related to cases of violence involving a child. However, the legislator notes that these provisions do not extend to criminal and administrative offense proceedings, which are governed by the Code of Juvenile Justice.²⁴

To safeguard the privacy rights of children within the justice system in the context of media coverage of criminal cases, it is appropriate to extend Article 71 of the “Code on the rights of the Child” to include criminal offenses²⁵. Alternatively, a third section could be added to Article 13 of the Code of Juvenile Justice, containing similar wording, which would prohibit media representatives from disclosing any identifiable personal data of a child involved in the juvenile justice process, whether directly or indirectly.²⁶

The European Court of Human Rights has confirmed in several rulings that freedom of expression can be restricted to protect the best interests of minors. One such case is *Handyside v. United Kingdom*. In this case, a London publishing house published *The Little Red Textbook*, intended for school children aged 12 to 18, discussing issues related to sexual education. When a UK court banned the book’s publication, the applicant claimed this action violated Article 10 of the Convention. The European Court raised concerns about the book’s potential negative impact on young, impressionable minds and its capacity to encourage behavior contrary to the law. The court concluded that the actions of state authorities fell within the framework of “strict necessity.”²⁷

Responsible journalism requires that journalists conduct themselves professionally, act with integrity, and adhere to journalistic ethics in their reporting. Journalists should provide balanced coverage by contacting relevant parties for comments before publication.

A critical factor in legal assessment is whether personal information is published by a journalist adhering to responsible journalism principles or by tabloid publications that share information solely for public curiosity. Responsible journalists enjoy greater protection of freedom of expression. However, it is not for the national government to determine the methods journalists should use in their reporting.

²⁴ *Law of Georgia “The Code on the right of the Child”, Parliament of Georgia, 20/09/2019, Article 2, first paragraph.*

²⁵ *Shekhiladze Kh., Prioritizing the best interests of a minor in conflict with the law in the process of juvenile justice (criminal proceedings), Tbilisi, 2019, 39.*

²⁶ *Kvrivishvili T., Guarantees of protection of the personal life of a minor in conflict with the law, dissertation (TSU), 2022, 194.*

²⁷ *Handyside v United Kingdom [1976] ECHR 5 at para. 48, (1976) 1 EHRR 737, [1976] ECHR 5493/72 (7 December 1976), European Court of Human Rights.*

When reporting on minors, journalists must observe the highest standards. In Georgia, these standards were implemented gradually over time. In past years, such standards did not exist for juvenile cases. Due to the nature of their profession, journalists have the potential to create an “enemy icon” out of individuals, particularly minors, which requires utmost care. This poses a significant risk of labeling. Given that the primary goal of juvenile justice is the resocialization of the minor, this risk becomes a considerable obstacle. Presently, on various internet platforms, there are stories that effectively create an “enemy icon” out of minors, which should not be accessible to the public, as they harm the legitimate interests of minors.

Today, in Georgian practice, journalists demonstrate relatively high professionalism in reporting on cases involving minors, but further progress is necessary to ensure children are protected from additional stigmatization.

5. Safeguarding the Personal Data of Child in Conflict with the Law as a Guarantee of Their Right to Privacy

The protection of personal data is one of the foremost challenges of the 21st century²⁸. Data protection concerns human autonomy and is regarded within the context of human rights and freedoms, specifically as an element of the inviolability of private life.

While the Constitution of Georgia does not specifically reference “personal data,” the Constitutional Court has established that personal data is integral to the constitutional right to privacy, safeguarded by Article 15 of the Constitution. Additionally, the court considers the interest in shielding individuals from the unauthorized disclosure of personal data within the framework of the right to informational self-determination, as guaranteed by Article 18, paragraph 3 of the Constitution.²⁹

Within children’s rights law, the protection of personal data forms part of the child's right to private life, as protected by Article 16 of the Convention on the Rights of the Child. This obligation to respect privacy extends to all individuals involved in the process, from the initiating body to the child's legal representative. The Convention mandates that the relevant authority uphold the confidentiality of a minor's personal data at all stages of proceedings, thereby safeguarding against its unauthorized disclosure.

The protection of minors' privacy rights in the digital age presents additional complexities, as technological advancements heighten the risks of unlawful intrusion. Public and private institutions involved in the collection, use, storage, and disclosure of children's data play a critical role and must act in the child’s best interests. Data processing authorities are further obligated to secure personal data against unauthorized access by third parties or the public, preventing any infringement of the minor's right to privacy. Disclosing personal data online carries specific risks, including the potential for cyberbullying.³⁰

The protection of minors' personal data is upheld through a comprehensive mechanism, which includes both international norms in personal data protection and specific international and national legislation regarding children’s rights, such as Georgia's Law “On Personal Data Protection” and a range of sectoral laws. European advisory and oversight bodies, along with

²⁸ Goshadze K., *Basic right to personal data protection*, 2020, 6.

²⁹ Kopaleishvili M., *Balance set by the Constitution between the right of public access to judicial acts and the right to protect personal data from access, research and recommendations on the need for legislative regulation in accordance with the decision of the Constitutional Court*, 2020, 17.

³⁰ Pachulia T., *Dangers of sharing personal data of minors on the Internet*, in the collection: *current problems and challenges of personal data protection*, Toloraya L., Firtskhalashvili A. (ed.), 2021, 45.

the National Data Protection Authority—Georgia's Personal Data Protection Service—also oversee the legality of personal data processing activities.

The protection of a minor's personal data within the context of legal conflict is a component of the right to private life. Both national and international instruments recognize that when processing the data of minors in legal conflicts, they are entitled to the right to personal data protection. Given a minor's inherent vulnerability, the disclosure of personal data could have profound adverse effects on their future. Consequently, there exists an enhanced interest in protecting the personal data of minors over that of adults.

Under the law "On Personal Data Protection," a minor's conviction is classified as a special category of data, which is treated separately from standard personal data protection regulations. As particularly sensitive data, it receives enhanced protection guarantees to safeguard the minor's interests. Confidentiality of such data must be maintained throughout all stages of the legal process to prevent harm to the minor³¹. Generally, processing of special data categories is prohibited; however, exceptions are allowed under legally defined circumstances. Specifically, the data of minors involved in criminal proceedings may be processed for managing personal records and registers within the criminal justice system, addressing individualized sentencing or parole issues, or when substituting remaining sentences with lighter penalties. This also applies when data is processed to enforce the provisions of the "Law of Georgia on Crime Prevention, Non-Custodial Sentence Enforcement, and Probation." Additionally, the data may be processed to support the resocialization and rehabilitation of juvenile convicts, prevent recidivism, and coordinate juvenile referrals.

The "Child-Friendly Justice" guidelines underscore the need to protect minors' personal data and encourage member states to ensure that identifying information about minors remains confidential and unpublished. Access to records involving minors should be strictly limited, and where information sharing is essential, states are encouraged to implement robust data protection laws. Although juvenile cases are typically non-public, such records may be accessible for research purposes, provided the information is fully anonymized to ensure privacy.

A Constitutional Court decision, issued before relevant legislative updates, has led to inconsistencies in accessing judgments against minors³². Some courts issue anonymized versions of judgments, others require the consent of the data subject, and some deny access entirely. For instance, the Tbilisi City Court denied requests for public access to judgments against minors, stating that "to protect minors' interests, criminal cases involving minors are held in closed sessions... court decisions from such cases are not processed for public databases."³³

International and regional frameworks on children's rights protection focus on aspects such as data storage duration and the necessity of data destruction after a specific period. National legislation, through the "Personal Data Protection" law, provides a general guideline stating that one of the core principles in data processing is the limitation on data retention.

³¹ *Kopaleishvili M., Balance set by the Constitution between the right of public access to judicial acts and the right to protect personal data from access, research and recommendations on the need for legislative regulation in accordance with the decision of the Constitutional Court, 2020, 17.*

³² *Decision No. 1/4/693,857 of the Constitutional Court of Georgia of June 7, 2019 in the case "A(A)IP Media Development Fund" and A(A)IP Freedom of Information Development Institute" against the Parliament of Georgia.*

³³ *Kvrivishvili T., Guarantees of personal life protection of minors in conflict with the law, Tbilisi, 2022, 159.*

Specifically, “data may be stored only for the period required to achieve the legitimate purpose of data processing. Upon fulfilling this purpose, data must be deleted, destroyed, or anonymized, unless continued processing is mandated by law and is necessary and proportionate to the democratic interests of society.”³⁴

In *S. and Marper v. United Kingdom*³⁵, the European Court of Human Rights found that indefinite retention of a minor's fingerprints and DNA data, even following acquittal, violated Article 8 of the European Convention on Human Rights. One of the applicants in this case was an 11-year-old accused of a criminal offense who, despite his acquittal, had his fingerprints and DNA sample retained indefinitely by the police in England and Wales. The European Court explained that, under Council of Europe data protection instruments, data retention must be proportionate to its purpose and time-limited, a requirement particularly relevant to police data. The legislation in England and Wales allowed indefinite retention of this data, which the court found to be a disproportionate interference with the applicant's right to privacy. Furthermore, the court expressed particular concern over the potential harm to minors due to indefinite data retention, given the importance of a minor's development and social reintegration. The court emphasized the need to protect the right to privacy of minors under criminal law, as outlined in Article 40 of the 1989 UN Convention on the Rights of the Child. Special attention, it argued, should be directed toward shielding minors from harm resulting from governmental retention of personal data after an acquittal.³⁶

It is equally essential that third parties permitted by a judge to attend a juvenile's court hearing are bound to maintain confidentiality regarding the juvenile's information. A strong legal guarantee is necessary to safeguard the right to privacy for minors. Several norms in the Criminal Procedure Code of Georgia address this matter. Article 104 of the Civil Code grants the court the authority, based on justice and the parties' interests, to protect case participants or those present in the courtroom from public disclosure of case data, either at a party's request or at the court's initiative. Additionally, Article 182, Part 7 of the Civil Code allows the court to require individuals present at closed sessions to refrain from disclosing any information learned during the session. However, these articles provide the judge with the right—but not the obligation—to warn attendees about confidentiality. It would be advisable to amend Article 29 of the Civil Code to obligate judges to inform individuals present at a minor's court session of the requirement to keep the minor's information confidential. This security measure, as stipulated in current practice, would incur criminal liability under Article 381 of the Criminal Code of Georgia if breached.

Adherence to guiding principles under the law “On Personal Data Protection” is critical, as these principles represent the core tenets of data protection law, with breaches resulting in legal offenses.

6. Conclusion

Research highlights significant challenges in protecting minors from stigmatization, particularly when their rights are compromised by media coverage. To address this, the Supreme Council of Justice of Georgia is encouraged to ensure that juvenile courtrooms are suitably equipped, including designated areas for attendees, to minimize exposure of minors'

³⁴ *Law of Georgia “On Personal Data Protection”, Article 4, Section 1, Sub-section “e”.*

³⁵ *S. and Marper v. The United Kingdom, [2008] ECHR, nos. 30562/04 and 30566/04, §124.*

³⁶ *S. and Marper v. The United Kingdom, [2008] ECHR, nos. 30562/04 and 30566/04, §124.*

identities. The closed-door policy in general courts has raised concerns about further risks of identification for minors involved in legal conflicts.

Additionally, discussions are underway regarding the assignment of specialized journalists to cover cases involving minors, which would ideally lead to more sensitive reporting. With Georgia's updated "Personal Data Protection" law, stronger protections are established for minors' privacy, placing clear obligations on data controllers to handle minors' data in their best interests. This law indicates the legislative intent to safeguard minors' privacy rights rigorously.

The primary focus of this paper was to explore the privacy protections for minors in the context of juvenile justice, evaluating how well Georgian laws align with international and European standards. The research highlights the need for high standards to prevent the stigmatization of minors in conflict with the law by preserving their anonymity. The Convention on the Rights of the Child identifies this right as essential for ensuring a fair trial, underscoring that minors have all the rights afforded to adults, though these are tailored to account for minors' age, psychological development, and other specific circumstances.

Georgian legislation, particularly the law "On Personal Data Protection, already offers significant safeguards for minors' data. Importantly, this law now recognizes offenses against minors as aggravating circumstances, which is an important legislative development aimed at strengthening protections for this vulnerable group.

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