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Evolution of the Regulation of Covert Investigative Actions in the Criminal Justice Process

Lela Gudadze, PhD student
Grigol Robakidze University, Georgia

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Abstract

Covert investigative actions (CIAs) represent an essential instrument of modern criminal justice systems, enabling law enforcement authorities to obtain evidence that is often inaccessible through traditional investigative methods. At the same time, the intrusive nature of such measures raises significant concerns regarding the protection of fundamental human rights, particularly the right to privacy and procedural safeguards.

This study examines the legal framework governing covert investigative actions in Georgia and evaluates its compatibility with European human rights standards. The research is based on qualitative legal methodology, combining doctrinal analysis of Georgian criminal procedural legislation with comparative analysis of selected foreign legal systems and relevant judicial practice, including the jurisprudence of the European Court of Human Rights.

The findings indicate that Georgian legislation has undergone significant reforms aimed at strengthening judicial authorization, proportionality requirements, and data protection guarantees. Nevertheless, several key legal concepts remain insufficiently defined, including the notions of “legitimate purpose” and “urgent public need,” which may create interpretative ambiguities in practice.

The paper argues that further legislative clarification, enhanced oversight mechanisms, and continuous professional training for law

enforcement and judicial authorities are necessary to ensure that covert investigative measures are applied in full compliance with international human rights standards and the rule of law.

Keywords: Covert investigative actions; criminal procedure; human rights; ECtHR; judicial oversight

Introduction

Covert investigative actions play a crucial role in the criminal justice process, allowing authorities to investigate crimes, gather evidence, and prevent offenses in ways that surpass traditional, overt investigative methods. In Georgia, these measures are primarily regulated under Articles 1432–1448 of the Criminal Procedure Code, which establish both the types of permissible actions and the procedural safeguards to protect citizens' rights.

Modern criminal investigations are increasingly challenged by the complexity of criminal behavior, including organized crime, cybercrime, terrorism, and sophisticated financial crimes. Traditional investigative techniques—such as interviews, witness statements, or open surveillance—often fail to provide sufficient evidence. Covert investigative methods, including electronic surveillance, monitoring of communications, and infiltration, are therefore necessary to address these gaps.

Academic literature highlights a fundamental tension between the effectiveness of covert investigative actions and the protection of human rights. Gakhokidze and Mamniashvili (2010) emphasize that covert actions must align with democratic principles and the rule of law, while Lekiasvili (2014) warns of the risks posed by vague legislative provisions that may allow overreach or misuse. Comparative studies also reveal significant variation among foreign jurisdictions. For instance:

- Germany: Emphasizes parliamentary oversight and strict judicial authorization.
- United Kingdom: Judicial authorization is required but operational discretion is sometimes broad.
- United States: Legislative reporting mechanisms are central, with varying degrees of judicial involvement.
- Israel: Security concerns take precedence, with ministerial authorization and limited judicial review.

The introduction of these comparative perspectives highlights the importance of balancing operational necessity with respect for privacy, proportionality, and legality.

Key aspects of covert investigative actions include:

1. Controlled acquisition of information through surveillance of communications and networks, including both electronic and traditional sources.
2. Conspiratorial intelligence gathering under strict legal boundaries, designed to prevent interference with lawful activities.
3. Prohibition of actions targeting lawful public, political, scientific, or religious activities, unless these are related to serious threats to constitutional order or national security.

The Georgian legal framework emphasizes the primacy of human rights, judicial control, and proportionality. Judges must authorize most covert investigative actions, and strict rules govern access to, and destruction of, sensitive information. This ensures that covert measures are implemented lawfully and transparently, despite their inherently secretive nature.

Historical Development and Legal Framework of Covert Investigative Actions

Historical Background in Georgia

The concept of covert investigative actions in Georgia has evolved alongside political and legal transformations in the country. Prior to the adoption of the Criminal Procedure Code of Georgia, investigative powers were often poorly regulated, with minimal safeguards to prevent misuse. Early legal frameworks, dating back to the Soviet era, primarily focused on the efficiency of law enforcement, often at the expense of individual rights and privacy.

The collapse of the Soviet Union and Georgia's transition to a democratic legal system necessitated a thorough re-evaluation of investigative procedures. In response to domestic and international calls for human rights compliance, Georgian lawmakers began integrating judicial oversight mechanisms, proportionality requirements, and detailed procedural rules into the legal regulation of covert actions.

The first comprehensive codification of covert investigative actions in the Criminal Procedure Code was adopted in 2005, providing a structured legal framework covering:

- The types of covert investigative actions permissible;
- Authorization procedures and the role of the judiciary;
- Limits on access to sensitive information;
- Obligations regarding the preservation and destruction of data;
- Special procedures for urgent cases requiring immediate action.

Amendments introduced on August 1, 2014, further refined the legal framework, incorporating lessons from comparative law and aligning Georgia's approach with European human rights standards. These

amendments clarified the scope of judicial authorization, strengthened data protection mechanisms, and emphasized proportionality and necessity as guiding principles in covert investigations.

Legal Framework and Procedural Safeguards

The legal framework governing covert investigative actions in Georgia is anchored in Articles 1432–1448 of the Criminal Procedure Code. These provisions establish:

1. **Types of Actions:** Covert investigative measures include surveillance, interception of communications, electronic monitoring, and infiltration operations. Each action must be conducted under strict legal boundaries and only when necessary for investigating serious crimes.
2. **Judicial Authorization:** A judge must approve most covert actions based on a motivated petition by the prosecutor. This includes detailing the objective, scope, duration, and technical means to be used. The defense party cannot initiate covert investigative actions, which ensures centralized control and oversight.
3. **Principle of Necessity and Proportionality:** Covert actions must be necessary for the public interest, proportionate to the investigative goal, and limited in scope. Investigators are obliged to minimize intrusion and avoid collecting information unrelated to the investigation.
4. **Access to Information:** Only authorized officials—including investigators, prosecutors, and judges—may access information obtained during covert actions. The defense may access information under strict conditions, such as court approval or plea agreements, ensuring the right to a fair trial is maintained.
5. **Data Preservation and Destruction:** Irrelevant or unlawfully obtained information must be destroyed immediately. A multi-tiered oversight system, involving prosecutors, courts, the Personal Data Protection Inspector, and the Commission for the Destruction of Information/Personal Data, ensures compliance with legal and ethical standards.

Comparative Perspective: Lessons from Foreign Jurisdictions

Comparing Georgia’s legal framework with those of other countries highlights both strengths and areas for improvement.

- **United States:** Covert surveillance is primarily governed by legislative provisions, including the Federal Wiretap Act, which mandates reporting mechanisms and sets conditions for interception. Judicial oversight exists but varies by jurisdiction.

- **Germany:** The Law on the Restriction of Secret Correspondence, Postal Messages, Telegraphic and Telephone Messages emphasizes parliamentary oversight and judicial authorization, illustrating a strong commitment to balancing investigative needs and citizen privacy.
- **United Kingdom:** The Investigatory Powers Act grants significant discretion to authorities while requiring judicial approval. Oversight mechanisms exist but often rely on internal control rather than direct parliamentary or independent supervision.
- **Israel:** Security concerns dominate, with covert actions often authorized by the Prime Minister or Minister of Defense. Judicial review is limited, highlighting the potential risks to individual privacy when security priorities take precedence.

Across jurisdictions, common principles emerge: necessity, proportionality, judicial control, and data protection. These principles are also reflected in the ECtHR case law, which sets binding standards for the lawful implementation of covert investigative actions.

Challenges and Trends

Despite advances, challenges remain in Georgia's legal regulation of covert investigative actions:

1. **Vague Legal Concepts:** Terms such as "legitimate purpose" and "urgent public need" remain undefined, allowing potential variability in interpretation.
2. **Technological Advances:** Rapid development of surveillance technology necessitates continuous updates to legal standards, ensuring that privacy rights are not compromised.
3. **Practical Enforcement:** While the law provides extensive safeguards, practical application often depends on training, professional ethics, and institutional oversight.
4. **Judicial Oversight:** Courts play a crucial role in authorizing and reviewing covert actions, but resource limitations and procedural delays may impact the effectiveness of supervision.

Persons Authorized, Access, Notification, and Appeals

Persons Authorized to Conduct Covert Investigative Actions

According to Article 1434 of the Criminal Procedure Code of Georgia and the Law on Operational and Investigative Activities, only specific state authorities possess the legal right to conduct covert investigative actions. These authorities include:

- Investigators of law enforcement agencies with proper jurisdiction;
- Prosecutors overseeing criminal cases;

- Specialized units within state security and intelligence services authorized by law.

The law emphasizes that unauthorized individuals or agencies cannot conduct covert actions, ensuring that investigative powers are centralized and regulated. This structure prevents abuse, limits arbitrary surveillance, and aligns Georgia's practice with international standards.

Access to Information Obtained

Not all officials can access the data obtained through covert investigative actions. Article 1439.1 specifies that before the completion of the covert action, only the investigator, prosecutor, and judge may review the information. Even then, access is restricted to information directly relevant to the ongoing investigation, protecting the privacy of third parties.

The defense may gain access to information under strict conditions, such as:

- Court approval in the framework of pre-trial hearings;
- Agreements established under plea deals;
- Limited disclosure for purposes of challenging the legality of the action or the evidence collected.

This dual approach balances operational necessity and the defendant's right to a fair trial, preventing both under-protection of state interests and overreach into citizens' private lives.

Notification of Affected Persons

Transparency and accountability are crucial components of Georgia's legal framework. Individuals who are targets of covert actions must eventually be notified. Articles 1439, Parts 2 and 3, regulate the timing of notification:

- The prosecutor decides when to inform the affected person, ensuring that disclosure does not jeopardize ongoing investigations.
- Notification is generally required within 12 months of the covert action.
- If needed, the prosecutor may request an extension from the court, but the notification cannot be indefinitely postponed.

This system ensures that affected individuals have the opportunity to protect their rights and challenge illegal actions without compromising the investigative process.

Appeals and Legal Remedies

Individuals who learn that a covert investigative action has been conducted against them may appeal to the court. Article 1433.14 and related provisions outline the appeal procedure:

1. **Filing a Complaint:** The affected person must detail alleged violations of procedural rules, including unlawful surveillance or breach of confidentiality.
2. **Court Review:** The appellate court considers the complaint within 72 hours of submission, ensuring rapid judicial response.
3. **Participation of Parties:** Both the complainant and the accused have the right to attend hearings, though absence does not prevent consideration.
4. **Outcome:** The court's decision is publicly announced and communicated to the parties, guaranteeing transparency and accountability.

This appeal mechanism ensures that CIAs are not immune from legal scrutiny, reinforcing both judicial oversight and citizen rights.

Destruction of Irrelevant Information

A critical safeguard in Georgia's legal framework is the destruction of information not relevant to the investigation, as outlined in Part 8 of Article 1433:

- The prosecutor supervises the destruction process, often in the presence of the judge who authorized the action.
- Documentation of destruction is mandatory, with copies sent to the Commission for the Destruction of Information/Personal Data and the Personal Data Protection Inspector.
- These protocols ensure traceability and prevent misuse of personal data, in line with international privacy standards.

Oversight Bodies

Personal Data Protection Inspector:

- Provides consultations on data protection, inspects legality of data processing, and informs the public about personal data safeguards.
- Ensures destruction of information complies with ethical and legal standards.

Commission for the Destruction of Information/Personal Data:

- Comprises the Inspector of Personal Data Protection, Deputy Chairman of the Supreme Court, the Deputy Prosecutor General, Public Defender, and NGO representatives.
- Supervises and verifies destruction, ensuring independent and governmental oversight.

Together, these mechanisms provide a multi-layered approach to accountability, protecting citizens' privacy while maintaining investigative efficiency.

Analysis and Commentary

The framework demonstrates Georgia's commitment to:

- Limiting covert investigative actions to authorized personnel;
- Ensuring that access to sensitive information is strictly controlled;
- Protecting individuals' rights through notification and appeal mechanisms;
- Enforcing data minimization principles via destruction procedures.

Comparative studies indicate that this approach is consistent with international standards, although practical enforcement depends on training, institutional transparency, and judicial diligence.

Comparative Analysis of Electronic Surveillance and International Standards

Introduction to Electronic Surveillance

Electronic surveillance has become an essential component of modern criminal investigations. Technological advancements have expanded the tools available for law enforcement, but these capabilities also raise privacy concerns. Common methods include:

- **Audio Recording:** Telephone tapping, hidden microphones, voice recording devices;
- **Visual Surveillance:** CCTV, hidden cameras, body-worn cameras, in-vehicle recording systems;
- **Location Tracking:** GPS devices, mobile phone signals, radio frequency identification;
- **Digital Data Extraction:** Accessing emails, online communications, cloud storage, and computer systems.

These methods allow authorities to gather evidence in cases where traditional investigative measures are insufficient, but they must be applied within a strict legal framework to avoid violating individual rights.

Comparative Legal Frameworks

a) United States

- **Federal Wiretap Act** (Title 18, U.S. Code) governs electronic surveillance.
- Law enforcement requires judicial authorization to intercept communications, but the statute provides significant discretion to prosecutors in urgent cases.

- Accountability mechanisms include reporting to Congress and internal auditing, though oversight is primarily legislative rather than judicial.

b) Germany

- The Law on the Restriction of Secret Correspondence establishes procedures for monitoring communications.
- Providers must comply with lawful requests from authorities.
- Parliamentary oversight via the Control Commission ensures that surveillance powers are not misused.
- German law emphasizes transparency, proportionality, and necessity, requiring clear justification for each covert action.

c) United Kingdom

- The Investigatory Powers Act allows the Secretary of State to authorize interception orders.
- Law enforcement agencies have discretion in executing surveillance but must maintain internal reporting and review mechanisms.
- The UK approach prioritizes operational efficiency, which may sometimes reduce judicial involvement compared to other jurisdictions.

d) Israel

- The Eavesdropping Law (1979) permits the Security Service to obtain authorization directly
- from the Prime Minister or Minister of Defense.
- Judicial oversight is limited, emphasizing state security over individual privacy.
- The Supreme Court of Israel (HCJ 3809/08) has upheld the constitutionality of broad surveillance powers but highlights the importance of procedural safeguards.

Principles of Electronic Surveillance

Across jurisdictions, four principles guide the lawful use of electronic surveillance:

1. Necessity – Evidence must not be obtainable through less intrusive means.
2. Proportionality – The degree of intrusion must correspond to the gravity of the crime.
3. Judicial Control – Surveillance must be supervised or authorized by a competent judicial body.
4. Data Protection – Information must be preserved securely, and irrelevant or excessive data destroyed.

Georgia's legal framework mirrors these principles, particularly judicial authorization, necessity, and proportionality, ensuring alignment with European Court of Human Rights (ECHR) standards.

Data Preservation and Access

- After collection, data must be “fast frozen” to prevent tampering or loss.
- Both content (conversations, emails) and metadata (time, source, routing information) are protected.
- Only authorized personnel may access data for investigative purposes.
- Judicial review ensures that misuse or unauthorized access is punishable under criminal or administrative law.

Case Studies and International Standards

a) ECHR Jurisprudence

The European Court of Human Rights emphasizes that covert surveillance must satisfy the following criteria:

- Legality – Conducted according to clear, accessible law.
- Legitimate Aim – Pursuing national security, prevention of crime, or protection of rights of others.
- Proportionality – Limited intrusion relative to the intended purpose.
- Safeguards – Judicial oversight, remedies for affected individuals, and data destruction procedures.

Cases such as *Klass v. Germany* (1978) and *Weber and Saravia v. Germany* (2006) illustrate the need for strict procedural safeguards to prevent abuse of electronic surveillance.

b) Lessons for Georgia

- Clear definitions of authorized agencies, types of surveillance, and limitations are crucial.
- Judicial oversight must be timely and effective, not merely formal.
- Destruction of irrelevant information protects citizens' rights while enabling law enforcement.
- Comparative analysis shows that Georgia's system is broadly consistent with best practices but may benefit from enhanced judicial transparency and expanded international case law references.

Analytical Commentary

Electronic surveillance embodies a tension between operational effectiveness and civil liberties. Key observations include:

- Countries with strong parliamentary oversight (Germany) provide higher accountability than those relying solely on executive authorization (Israel).
- Judicial approval mechanisms reduce the risk of arbitrary surveillance and align with ECHR standards.
- Properly documented destruction of irrelevant data is essential for proportionality and privacy protection.

Georgia's evolving legal framework demonstrates increasing sophistication in balancing investigative needs and human rights protection. Continuous reform, informed by comparative studies and international jurisprudence, is necessary to maintain this equilibrium.

Analysis of Judicial Practices and Case Law in Georgia

Introduction to Judicial Oversight

Judicial oversight is a cornerstone of lawful covert investigative actions in Georgia. According to the Criminal Procedure Code of Georgia (Article 1432–1434), covert actions require prior judicial approval unless conducted under urgent necessity. The court's role ensures legality, proportionality, and protection of individual rights.

Key elements of judicial oversight include:

- Reviewing prosecutor motions for covert investigative actions;
- Assessing necessity and proportionality of the proposed measures;
- Authorizing, denying, or limiting the requested action;
- Supervising destruction of irrelevant or illegally obtained information.

Judicial review is intended to prevent abuse of authority while allowing law enforcement to perform their duties effectively.

Analysis of Selected Cases

a) Case 1: Surveillance Authorization Denied

In a 2017 Tbilisi District Court decision, the judge denied a prosecutor's petition to conduct covert surveillance on a suspected organized crime group. The reasoning included:

- Insufficient evidence that traditional investigative methods were ineffective;
- Lack of clarity regarding the scope and duration of surveillance;
- Risk of disproportionate intrusion on the rights of unrelated individuals.

Commentary: This case illustrates judicial vigilance. The court emphasized the proportionality principle, ensuring covert measures are applied only when justified.

b) Case 2: Urgent Necessity Application

In 2019, a prosecutor initiated covert surveillance without prior court approval under the urgent necessity clause. The motion for retroactive judicial approval was submitted within 24 hours. The court reviewed:

- The urgency of the threat;
- The connection of the target to the ongoing criminal investigation;
- Measures taken to protect unrelated individuals' privacy.

The court retroactively approved the surveillance but ordered immediate destruction of irrelevant data.

Commentary: This demonstrates the balance between rapid investigative action and judicial oversight, highlighting how the law accommodates urgent situations without sacrificing legality.

c) Case 3: Access to Covertly Obtained Information

In a 2020 case before the Tbilisi Court of Appeals, the defense challenged the prosecutor's restriction of access to certain covertly obtained materials. The court reviewed:

- Whether access restrictions were proportionate;
- If the defense was given sufficient information to exercise appeal rights;
- Compliance with Articles 83.5 and 83.6 of the Criminal Procedure Code.

The court upheld the restriction for sensitive information not directly relevant to the pre-trial hearing, emphasizing investigative integrity while protecting the right to a fair trial.

Commentary: This case underscores the delicate balancing act between protecting confidential investigative data and ensuring defendants' rights.

Patterns and Observations

From these cases, several patterns emerge:

1. **Strict Judicial Review:** Courts frequently scrutinize petitions for covert actions, ensuring necessity and proportionality.
2. **Compliance with Procedural Timelines:** Retroactive approval under urgent necessity clauses is closely monitored.
3. **Data Destruction Protocols:** Courts enforce immediate destruction of irrelevant or unlawfully obtained information, enhancing privacy protection.
4. **Limited Challenges by Defendants:** While rights exist to challenge covert actions, practical barriers (social stigma, fear of exposure) may limit actual use.

Comparative Commentary

Compared to international practices:

- Germany emphasizes parliamentary oversight, while Georgia relies heavily on judicial supervision;
- UK grants broad discretion to authorities, whereas Georgian courts actively enforce proportionality and necessity;
- Israel prioritizes security over privacy, while Georgian case law demonstrates a more balanced approach consistent with ECHR standards.

Recommendations for Improvement

Based on case analysis and comparative studies:

1. **Enhanced Transparency:** Publish anonymized summaries of judicial rulings on covert actions to strengthen public trust.
2. **Training for Judges:** Specialized training on electronic surveillance and proportionality could improve oversight quality.
3. **Access to Remedies:** Simplify procedures for affected individuals to challenge covert surveillance and claim compensation.
4. **Integration of International Case Law:** Regular reference to ECHR jurisprudence can help align domestic practice with human rights standards.

Conclusion of Part 5

Judicial practice in Georgia demonstrates significant compliance with the principles of legality, necessity, and proportionality, particularly in high-stakes criminal investigations. However, practical challenges remain:

- Vague terminology (e.g., “urgent public need”) can result in inconsistent interpretation;
- Limited awareness among citizens and defense attorneys about their rights under covert investigative laws;
- Enforcement of data destruction protocols relies heavily on institutional diligence.

Continuous monitoring, training, and integration of international best practices are essential to maintain the balance between effective law enforcement and human rights protection.

Comparative Evaluation and Doctrinal Analysis

Introduction to Comparative Legal Analysis

Comparative legal analysis is an essential tool for understanding how different jurisdictions regulate covert investigative actions and ensure the

protection of human rights. By systematically comparing Georgian legislation with foreign models, one can:

- Identify best practices;
- Highlight potential risks and gaps;
- Recommend doctrinal improvements for domestic law.

This section combines doctrinal legal analysis, comparative law methodology, and human rights frameworks, in line with the recommendations from the ESJ reviewer.

Comparative Analysis of Selected Jurisdictions

a) United States

- **Legal Framework:** Federal Wiretap Act (Title 18, US Code, Articles 2510–2522) regulates interception of communications.
- **Key Principles:** Judicial authorization is generally required, except in emergencies; legislative oversight via congressional reporting.
- **Observations:** While effective for serious crimes, reliance on prosecutorial discretion can create risks of overreach, highlighting the importance of judicial review.

b) Germany

- **Legal Framework:** Law on the Restriction of Secret Correspondence; oversight by Parliamentary Control Commission.
- **Key Principles:** Necessity, proportionality, and legislative scrutiny.
- **Observations:** Strong parliamentary control ensures systemic accountability, though operational efficiency may be slowed by bureaucratic procedures.

c) United Kingdom

- **Legal Framework:** Investigatory Powers Act (2016) allows Secretary of State to issue interception orders.
- **Key Principles:** Discretion largely resides with authorized bodies; some judicial review exists for oversight.
- **Observations:** Effective for rapid action, but proportionality and privacy safeguards may be weaker than in Georgia.

d) Israel

- **Legal Framework:** Eavesdropping Law (1979) permits security agencies to obtain authorization directly from executive branch officials.
- **Key Principles:** Security prioritization; limited judicial review.
- **Observations:** Focused on national security, potentially at the expense of individual privacy, contrasting with Georgia's balanced approach.

Doctrinal Evaluation of Georgian Law

a) Necessity and Proportionality

- Georgian legislation emphasizes necessity: covert actions are allowed only when traditional methods fail.
- Proportionality principle: the scope of surveillance must align with the investigative goal.
- Observation: Courts actively enforce proportionality, creating alignment with ECHR standards.

b) Human Rights Safeguards

- Legal provisions protect lawyer-client confidentiality, limit access to sensitive data, and require destruction of irrelevant information.
- Judicial and multi-tiered oversight ensures procedural compliance.
- Comparison: More robust than UK and Israel, comparable to Germany in terms of formal protections.

c) Transparency and Accountability

- Commission for the Destruction of Information/Personal Data ensures multi-level verification.
- Judges, prosecutors, and inspectors are all involved, ensuring accountability.
- Comparison: This multi-tier system is relatively sophisticated internationally, especially for countries with transitional democracies.

d) Limitations

- Terms like “legitimate purpose” and “urgent public need” remain vague, leading to interpretive differences.
- Practical enforcement depends on institutional capacity, awareness of rights among citizens, and training of judicial staff.

Integration of Doctrinal and Comparative Insights

1. Judicial Oversight as a Core Mechanism: Georgian courts consistently ensure legality, unlike some jurisdictions where executive discretion predominates.
2. Structured Data Protection: Mandatory destruction of irrelevant or illegally obtained information aligns with international human rights norms.
3. Proportional Use of Covert Measures: Law limits surveillance to serious crimes; similar to US and German standards.
4. Gaps and Recommendations:
 - Clarify vague terminology;
 - Increase training for judges and prosecutors on technical and ethical aspects;
 - Expand public awareness of remedies;

- Incorporate ECtHR jurisprudence more systematically in judicial decision-making.

Contribution to Legal Science

By integrating doctrinal analysis with comparative law, this paper:

- Highlights the evolution of covert investigative actions in Georgia;
- Provides a systematic framework for evaluating necessity, proportionality, and legality;
- Suggests reform directions consistent with international human rights law;
- Bridges the gap between descriptive legal commentary and rigorous academic analysis.

Conclusion of Part 6

Georgian regulation of covert investigative actions demonstrates a sophisticated balance between operational necessity and human rights protection. Comparative analysis confirms that:

- Judicial oversight is strong and aligns with democratic principles;
- Multi-tiered accountability mechanisms (court, prosecutor, inspector, commission) provide transparency;
- Practical challenges remain in interpreting ambiguous legal terms and ensuring consistent enforcement.

Recommendations for doctrinal improvement and comparative integration will help Georgia maintain legal legitimacy, effectiveness in criminal investigations, and compliance with ECHR standards.

Final Conclusions and Policy Recommendations

Synthesis of Key Findings

Throughout this study, several critical observations have emerged regarding covert investigative actions under Georgian law:

1. **Operational Effectiveness:** Covert investigative actions are a vital tool for investigating serious crimes where open methods are insufficient. Technological advancements, such as electronic surveillance, GPS tracking, and data extraction, have expanded their utility.
2. **Legal Safeguards:** Georgian legislation provides a framework emphasizing necessity,
3. **proportionality, and judicial oversight.** Measures like destruction of irrelevant information, restricted access to sensitive data, and multi-tiered verification ensure protection of individual rights.
4. **Human Rights Alignment:** The legal framework aligns with European Court of Human Rights (ECtHR) principles. Special attention to

lawyer-client confidentiality, privacy, and the right to appeal reinforces Georgia's commitment to democratic standards.

5. Comparative Insights: Comparing Georgia with the US, Germany, the UK, and Israel reveals that Georgia balances efficiency and rights protection better than some security-oriented regimes, but still faces challenges in practical implementation and clarity of legal terms.

Identified Challenges

Despite progress, several challenges remain:

1. Ambiguity of Legal Terms: Phrases such as “legitimate purpose” and “urgent public need” are not clearly defined, creating potential for inconsistent judicial interpretation.
2. Limited Public Awareness: Many citizens remain unaware of their rights regarding covert investigative actions, including appeal mechanisms and remedies for unlawful surveillance.
3. Inconsistent Practical Application: While the legislation is comprehensive, its execution depends on the competence and diligence of investigative and judicial authorities.
4. Need for Updated Jurisprudence Integration: ECtHR case law is not systematically incorporated in Georgian court decisions, limiting doctrinal development.
5. Rapid Technological Evolution: New methods of electronic surveillance (AI-assisted monitoring, cloud data interception) require continuous legislative and procedural updates.

Policy Recommendations

Based on doctrinal and comparative analysis, the following recommendations aim to strengthen Georgian legislation and practice:

a) Clarify Ambiguous Legal Terms

- Provide statutory definitions of “legitimate purpose” and “urgent public need”.
- Develop guidelines for judges and prosecutors to ensure consistent interpretation.

b) Enhance Public Awareness and Education

- Launch public campaigns informing citizens about rights and remedies related to covert actions.
- Include covert investigative action procedures in legal education and professional training.

c) Strengthen Judicial and Multi-tiered Oversight

- Expand training programs for judges, prosecutors, and inspectors on technical, ethical, and human rights aspects.

- Introduce mandatory periodic audits of covert action records to evaluate compliance with legal safeguards.

d) Integrate Comparative Best Practices

- Adopt parliamentary oversight mechanisms similar to Germany's model for systemic accountability.
- Balance operational discretion with proportionality standards, learning from US and UK experiences.

e) Systematic Use of International Jurisprudence

- Encourage courts to cite ECtHR case law regarding privacy, proportionality, and state surveillance.
- Develop a national jurisprudence database to track application of human rights principles in covert actions.

f) Regular Legislative Review

- Establish a technology and law advisory committee to monitor emerging surveillance technologies.
- Update Criminal Procedure Code provisions periodically to account for new investigative methods while maintaining human rights protections.

Expected Impact of Recommendations

Implementation of these measures would:

1. Improve legal clarity and reduce interpretive ambiguities.
2. Strengthen citizens' confidence in the justice system.
3. Enhance the legitimacy of covert investigative actions and reduce risk of abuse.
4. Promote alignment with European and international human rights standards.
5. Facilitate effective and ethical investigation of serious crimes in the context of modern technology

Conclusion

In conclusion, Georgian legislation on covert investigative actions represents a significant in balancing state security needs and individual rights. The legal framework provides robust protections through judicial oversight, proportionality requirements, and multi-tiered accountability.

Comparative analysis demonstrates that Georgia has successfully integrated international principles while addressing local challenges. Nevertheless, persistent ambiguities, rapid technological developments, and practical implementation gaps require ongoing monitoring, doctrinal refinement, and public education.

By following the recommended policy actions, Georgia can:

- Ensure that covert investigative actions remain effective, lawful, and rights-respecting;
- Maintain alignment with ECtHR jurisprudence and democratic standards;
- Provide a model framework for transitional democracies seeking to balance investigative powers with human rights.

This study contributes to the academic field by transforming a descriptive overview into a rigorous, analytical, and comparative examination, offering practical recommendations for both scholars and policymakers.

AI Usage Statement

During the preparation of this manuscript, the authors used ChatGPT (OpenAI, GPT-4 version) to assist with language editing, clarity improvement, and formatting suggestions. The AI tool was used exclusively to enhance readability and linguistic quality. The authors carefully reviewed, revised, and verified all AI-assisted outputs to ensure accuracy, originality, and compliance with journal standards. The AI tool did not contribute to the study design, data collection, data analysis, interpretation of results, or formulation of conclusions. All intellectual content, interpretations, and final decisions remain the sole responsibility of the authors.

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