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URGENT OPINION ON THE AMENDMENTS TO THE CODE OF ADMINISTRATIVE OFFENCES AND THE CRIMINAL CODE OF GEORGIA (AS ADOPTED ON 16 OCTOBER 2025)

GEORGIA

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The Urgent Opinion was also prepared in consultation with Ms. Gina Romero, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, as part of the *Framework for Joint Action for the protection and promotion of civic space*.

Based on an unofficial English translation of the Amendments provided by the Public Defender of Georgia.

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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The rights to freedom of peaceful assembly and freedom of expression are an integral part of the foundations of a democratic, tolerant and pluralist society in which individuals and groups with different backgrounds and beliefs can voice their opinions, gather and interact peacefully with one another.

States have positive obligations to respect, protect and facilitate the exercise of these rights, without discrimination. Effective protection of the rights to freedom of peaceful assembly and freedom of expression can help foster a culture of open democracy, enable participation in public affairs, and invigorate dialogue on issues of public interest. Any restriction on the right to freedom of peaceful assembly must meet the strict three-part test under international human rights law, namely that it must be provided by law, serve to protect one of the legitimate aims exhaustively recognized under international law and be necessary and proportionate to achieve this aim. In addition, any restrictions must be non-discriminatory. The state's positive duty to facilitate peaceful assembly should be reflected in the legislative framework and relevant practices, and when considering restrictions to reconcile this right with the rights of others or other permissible grounds for limitation, the state should prioritize facilitation over unnecessary or disproportionate limitations.

The current Urgent Opinion should be read against the backdrop of the serious concerns raised previously by ODIHR, international and regional organizations and bodies, national observers and other stakeholders regarding these and earlier legislative initiatives – in particular those unduly restricting the rights to freedom of peaceful assembly, freedom of expression and freedom of association, as well as the detention, in recent months, of peaceful protesters, human rights defenders, and opposition politicians for their peaceful participation in assemblies, in clear violation of Georgia's international human rights obligations.

The Amendments under review were submitted to the Parliament on 8 October 2025, adopted through an accelerated procedure on 16 October 2025, without public discussion, and entered into force upon publication on 17 October 2025. Overall, they introduce much harsher administrative and criminal penalties. They exclude the possibility to apply less restrictive alternative sanctions, introduce lengthier administrative detention as a default penalty for certain conduct defined as administrative offences, and criminal imprisonment where someone has a past record of committing these offenses.

This further exacerbates the negative impact of the restrictions introduced in February 2025 and December 2024, which ODIHR found to unduly interfere with the exercise of the right to freedom of peaceful assembly in Georgia in the Urgent Opinion published in March 2025.

In particular, the October 2025 Amendments introduce harsh terms of administrative detention up to the maximum of 60 days' detention, as the sole penalty for certain assembly-related offences, eliminating judicial discretion to impose lighter sanctions

such as fines of a proportionate nature or warnings. This approach directly contradicts international standards that require sanctions to be necessary, proportionate, and non-discriminatory. It transforms administrative detention into a default response to non-violent behaviour that do not reach the level of seriousness of the misbehaviour that may justify a stricter response (e.g., mere wearing of a mask or carrying laser and light-beam devices, disrupting the roadways or participation in a peaceful assembly that is considered unlawful). While deprivation of liberty, including administrative detention, should never be used as a punishment for the peaceful exercise of the right guaranteed under international law, the lack of less severe alternative sanctions also undermines the principle of proportionality. This, compounded by the absence of effective remedies to challenge such detentions, exacerbates the potential for abuse and the risk of arbitrary deprivation of liberty violating Article 9 of the ICCPR and Article 5 of the ECHR.

Under Article 347 of the Criminal Code as amended**,** imprisonment for terms of up to one year may now be imposed for the mere commission of certain non-violent acts, qualified by the national legislation as administrative offences where someone has a past record of committing such specified administrative offences, and of up to two years for doing so repeatedly (meaning more than once, and not within any stipulated timeframe), without evidence of intent to cause harm to society or to the people or actually causing such harm. These provisions penalize conduct that is protected by international human rights law, including the wearing of a mask, or for the peaceful participation in assemblies deemed unlawful or obstructing roadways. The amendments make imprisonment the default sanction, *de facto* resulting into disproportionate criminal penalties for the mere exercise of the right to freedom of peaceful assembly, including when guaranteed by the norms of international law.

Thus, imposition of criminal penalties in response to a conduct, which may be legitimate and lawful under the international law, would result in arbitrary deprivation of liberty in violation of Article 9 of the ICCPR and Article 5 of the ECHR. In addition, the introduction of criminal penalties involving imprisonment of up to one year for children (under 18 years of age) for repeated violations of the above-mentioned administrative provisions contravenes international obligations, which require that deprivation of liberty be used for children only as a measure of last resort, and call upon States to adopt non-custodial alternatives to detention as the default response to criminal offences allegedly committed by minors.

As noted in previous Opinions, disproportionate penalties alone violate the right to freedom of peaceful assembly, as they may deter the organization and participation in such events and have a chilling effect on the exercise of the rights to freedom of peaceful assembly and freedom of expression.

The amendments also criminalize verbal insults or other “offensive actions” against law enforcement and other officials, punishable by up to two years’ imprisonment for repeated offences. Such vague and broad terminology, which may lead to subjective interpretation, fails to meet the standards of legality, clarity, and foreseeability required under international law. It risks erroneous, overbroad, arbitrary and/or targeted

enforcement against legitimate criticism of public officials, thereby undermining freedom of expression and further amplifying the chilling effect on civic activism.

As underlined in ODIHR's March 2025 Urgent Opinion, the vague and broad wording of certain assembly-related offences are vulnerable to target individuals expressing dissenting views, human rights defenders, civil and political activists, journalists or others legitimately exercising their rights to freedom of peaceful assembly and freedom of expression. Furthermore, the cumulative effect of the amendments to the legal framework governing the exercise of fundamental freedoms, when considered alongside enforcement patterns, raises serious concerns that the October 2025 Amendments may be used for purposes beyond those permitted under the ECHR, in violation of Article 18 of the ECHR, in particular.

Overall, the **October 2025 Amendments raise serious concerns about Georgia's lack of compliance with international human rights obligations, especially Articles 9, 19 and 21 of the ICCPR and Article 5, 10, 11 and 18 of the ECHR and should be repealed. ODIHR also reiterates the previous recommendations with respect to the February 2025 Amendments as underlined in its March 2025 Urgent Opinion.**

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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I. INTRODUCTION

1. On 24 October 2025, the Public Defender of Georgia requested the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to provide an urgent legal opinion on the Amendments to the Code of Administrative Offences and to the Criminal Code of Georgia adopted on 16 October 2025 (hereinafter "the October 2025 Amendments").
2. On 27 October 2025, ODIHR responded to this request, confirming the Office's readiness to prepare a legal analysis on the compliance of these Amendments with international human rights standards and OSCE human dimension commitments.
3. Given the evolving contextual situation, the sensitive nature of the October 2025 Amendments and the resulting urgency, ODIHR decided to prepare an Urgent Opinion, which focuses on the most concerning issues. The absence of comments on certain of these amendments should not be interpreted as an endorsement of these provisions.
4. This Urgent Opinion should be read together with the previous legal reviews on the rights to freedom of peaceful assembly and freedom of association in Georgia that have been published by ODIHR in 2023-2025, in so far as the main findings and recommendations contained therein have not been addressed.[1]
5. This Urgent Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist OSCE participating States in the implementation of their OSCE human dimension commitments.[2]

II. SCOPE OF THE URGENT OPINION

6. The scope of this Urgent Opinion covers only the October 2025 Amendments submitted for review, and the provisions that have been amended. Thus limited, the Urgent Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework regulating the exercise of the rights to freedom of peaceful assembly and freedom of expression in Georgia.
7. The Urgent Opinion raises key issues and provides indications of areas of concern and is based on international and regional human rights and rule of law standards, norms and recommendations as well as relevant OSCE human dimension commitments.
8. Moreover, in accordance with the *Convention on the Elimination of All Forms of Discrimination against Women*[3] (hereinafter "CEDAW") and the *2004 OSCE Action Plan for the Promotion of Gender Equality*[4] and commitments to mainstream gender into OSCE activities, programmes and projects, the Urgent Opinion integrates, as appropriate, gender and diversity perspectives.

1 In particular, OSCE/ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, 6 March 2025; and *Urgent Opinion on Proposed Amendments to the Law of Georgia on Assemblies and Demonstrations and to the Administrative Offences Code of Georgia*, 6 November 2023. These should be read together with other ODIHR legal reviews on recent legislation restricting the work of civil society organizations, including OSCE/ODIHR, *Urgent Opinion on the Law "On Transparency of Foreign Influence" of Georgia*, 30 May 2024.

2 In particular, CSCE/OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990, para. 9.2; and Charter of Paris for a New Europe (1990).

3 *UN Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter "CEDAW"), adopted by General Assembly resolution 34/180 on 18 December 1979. Georgia acceded to the Convention on 26 October 1994.

4 See *OSCE Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

9. This Urgent Opinion is based on an unofficial English translation of the October 2025 Amendments. Errors from translation may result. Should the Urgent Opinion be translated in another language, the English version shall prevail.

10. In view of the above, ODIHR would like to stress that this Urgent Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Georgia in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. Relevant International Human Rights Standards and OSCE Human Dimension Commitments

11. The rights to freedom of peaceful assembly and freedom of expression have been recognized as an integral part of the foundations of a democratic, tolerant and pluralist society in which individuals and groups with different backgrounds and beliefs should be able to voice their opinions, gather and interact peacefully with one another. The right to freedom of peaceful assembly can also help give voice to minority opinion and bring visibility to marginalized and under-represented groups. States have a positive obligation to respect, protect and facilitate the exercise of these rights, without discrimination. Effective protection of the rights to freedom of peaceful assembly and freedom of expression can help foster a culture of open democracy, enable non-violent participation in public affairs, and invigorate dialogue on issues of public interest. Public assemblies can also help ensure the accountability of corporate entities, public bodies and government officials and thus promote good governance in accordance with the rule of law.

1.1. The Right to Freedom of Peaceful Assembly

12. The right to freedom of peaceful assembly is enshrined in Article 20 (1) of the Universal Declaration on Human Rights (UDHR),[5] Article 21 of the International Covenant on Civil and Political Rights (ICCPR),[6] Article 11 of the European Convention on Human Rights (ECHR),[7] Article 15 of the Convention on the Rights of the Child (UN CRC),[8] and Articles 1, 21 and 29 of the UN Convention on the Rights of Persons with Disabilities (CRPD).[9] Article 12 of the EU Charter of Fundamental Rights is also of relevance in anticipation of possible future resumption of the EU accession process.[10]

13. The jurisprudence of the UN Human Rights Committee (UN HRC) as well as its General Comment No. 37 on Article 21 of the ICCPR[11] also offer authoritative interpretation of the nature and scope of the right to freedom of peaceful assembly. The various reports of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of

5 *Universal Declaration on Human Rights* (UDHR), adopted by General Assembly resolution 217 A on 10 December 1948.
6 *International Covenant on Civil and Political Rights* (ICCPR), adopted by UN General Assembly Resolution 2200A (XXI) on 16 December 1966. Georgia acceded to the ICCPR on 3 May 1994.
7 *Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms*, Article 11, signed on 4 November 1950, entered into force on 3 September 1953. Georgia ratified the ECHR on 20 May 1999.
8 *UN Convention on the Rights of the Child* (CRC), adopted by General Assembly resolution 44/25 of 20 November 1989. Georgia acceded to the CRC on 2 June 1994.
9 *Convention on the Rights of Persons with Disabilities* (CRPD), adopted by General Assembly resolution 61/106 of 13 December 2006. Georgia ratified the CRPD on 13 March 2014.
10 Charter of Fundamental Rights of the European Union (EU), OJ C 326, 26 October 2012.
11 UN Human Rights Committee (UN HRC), *General Comment No. 37 (2020) on the right of peaceful assembly (Article 21)*, CCPR/C/GC/37, 17 September 2020.

association provide further useful recommendations.[12] The case law of the European Court of Human Rights (ECtHR) provides additional guidance for Council of Europe Member States on how to ensure that their laws and policies comply with key aspects of Article 11 of the ECHR.[13]

14. OSCE participating States committed to respect the right to freedom of peaceful assembly as stated in the 1990 Copenhagen Document.[14] Further OSCE commitments regarding the right to peaceful assembly also include the 1990 Charter of Paris for a New Europe[15] and the Helsinki 2008 Statement from the Ministerial Council.[16]

15. ODIHR and its Panel of Experts,[17] in consultation with the Council of Europe's European Commission for Democracy through Law (Venice Commission), have also developed joint *Guidelines on Freedom of Peaceful Assembly* (hereinafter "the Guidelines"),[18] which are based on international and regional treaties, case-law and other documents related to the protection of human rights as well as the practice in other democratic countries adhering to the rule of law. These Guidelines provide useful guidance for developing and implementing national legislation on the right to freedom of peaceful assembly in accordance with international standards and OSCE human dimension commitments.

16. The right to freedom of peaceful assembly complements and intersects with other civil and political rights, including the right to freedom of expression (Article 19 of the ICCPR and Article 10 of the ECHR), the right to freedom of association (Article 22 of the ICCPR and Article 11 of the ECHR), the right to participate in public affairs (Article 25 (a) of the ICCPR) and the right to vote (Article 25 (b) of the ICCPR and Article 3 of Protocol No. 1 to the ECHR). Moreover, the right to freedom of peaceful assembly may overlap with the right to manifest one's religion or belief in community with others.[19] Recognizing the interrelation and interdependence of these different rights is vital to ensuring that the right to freedom of peaceful assembly is afforded practical and effective protection.

17. Freedom of peaceful assembly should be enjoyed, as far as possible, without (or with minimal) regulation,[20] unless there is a need for special protection. Moreover, states have positive obligations to respect, protect and facilitate the exercise of the right to freedom of peaceful assembly and this duty should be reflected in the legislative framework and relevant law enforcement and other regulations and practices.[21] This also means that

12 All the reports are available here. See in particular UN Human Rights Council, *Joint Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies*, A/HRC/31/66, 4 February 2016 (Joint Report of UN Special Rapporteurs (2016)). See also the *Joint Declaration on Protecting the rights to freedom of peaceful assembly and of association from criminalization amid intensified existential threats*, 17 September 2025.

13 See the *Caselaw Guide on Article 11 of the ECHR*, prepared by the Registry of the European Court of Human Rights (ECtHR) (updated 28 February 2025).

14 CSCE/OSCE, *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, 29 June 1990, para. 9.2, whereby OSCE participating States reaffirmed that *"(9.2) everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standard*"; and Charter of Paris for a New Europe (1990), where they affirmed that "*without discrimination, every individual has the right to (…) freedom of association and peaceful assembly*".

15 Adopted by the meeting of heads of state or government of the CSCE, 21 November 1990 (preamble).

16 Adopted by the sixteenth Helsinki Ministerial Meeting on 4 and 5 December 2008 (p. 5).

17 See <ODIHR Panel of Experts on Freedom of Assembly and Association>.

18 See *Guidelines on Freedom of Peaceful Assembly*, ODIHR-Venice Commission, 3rd ed., adopted at the Venice Commission Session on 21-22 June 2019, and further edited as of 15 July 2020.

19 See e.g., ECtHR, *Barankevich v. Russia*, no. 10519/03, 26 July 2007.

20 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, paras. 21 and 76. UN HRC, *General Comment No. 37 (2020) on the right of peaceful assembly (article 21)*, paras. 8 and 23 (no unwarranted interference). However, the measures taken by the authorities and interfering with the right to freedom of assembly should always have a legal basis under domestic law and the law should be accessible to the persons concerned and formulated with sufficient precision (see ECtHR, *Vyerentsov v. Ukraine*, no. 20372/11, 11 April 2013, para. 52).

21 See ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 22.

when considering restrictions to reconcile this right with the rights of others or broader public interests, the state should prioritize facilitation over unnecessary or disproportionate limitations. States must promote an enabling environment for the exercise of the right to peaceful assembly without discrimination, and should regulation be considered necessary,[22] put in place an enabling legal and institutional framework within which the right can be exercised effectively.[23] This also means that public authorities are required to remove all unnecessary legal and practical obstacles to the exercise of the right to freedom of peaceful assembly.[24]

1.2. The Right to Freedom of Expression

18. The right to freedom of opinion and expression is enshrined in Article 19 of the UDHR[25] and is guaranteed by Article 19 of the ICCPR,[26] Article 10 of the ECHR, Article 13 of the UN CRC, and Article 21 of the CRPD. Article 11 of the EU Charter of Fundamental Rights is also of relevance in anticipation of possible future resumption of the accession process.[27] The jurisprudence of the UN HRC as well as its General Comment No. 34 on Article 19 of the ICCPR also offer authoritative interpretation of the nature and scope of the right to freedom of expression and access to information.[28] The ECtHR case-law further serves as an important reference point, particularly for assessing the necessity and proportionality of restrictions to freedom of expression. In this respect, the ECtHR has underlined that states' "*discretion in punishing illegal conduct relating to expression or association, although wide, is not unlimited, and it must examine with particular scrutiny cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence*",[29] underlining that this may have an undesirable chilling effect on public speech. The Court further emphasized that when custodial sanction is being applied in the context of the exercise of a fundamental freedom, this calls for a particularly careful approach.[30]

19. At the OSCE level, a number of commitments proclaim the right of everyone to freedom of expression and to receive and impart information, as well as the right of the media to collect, report and disseminate information, news and opinion, underlining the essential role of independent and pluralistic media.[31]

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22 In line with the principle of necessity to legislate, whereby state intervention by legislation should only take place where state action is necessary and other, non-legislative interventions are not feasible or unlikely to have a successful outcome, see ODIHR, *Guidelines on Democratic Lawmaking for Better Laws* (16 January 2024), Principle 4.

23 UN HRC, *General comment No. 37 (2020) on the Right of Peaceful Assembly (Article 21)*, para. 24. T

24 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 76.

25 See the *Universal Declaration on Human Rights* (UDHR), adopted by General Assembly resolution 217 A on 10 December 1948.

26 Article 19 of the ICCPR provides that "*everyone shall have the right to hold opinions without interference*" and that "*everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*."

27 Charter of Fundamental Rights of the European Union (EU), OJ C 326, 26 October 2012.

28 See UN HRC, General Comment No. 34 on Article 19 of the ICCPR, CCPR/C/GC/34, para. 11, where the UN HRC further elaborates that "*[f]reedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights*" and protects "*even expression that may be regarded as deeply offensive, although such expression may be restricted in accordance with the provisions of article 19, paragraph 3 and article 20."*

29 See ECtHR, *Chkhartishvili v. Georgia*, no. 31349/20, 11 May 2023, paras. 59-60. See also *Taranenko v. Russia*, no. 19554/05, 15 May 2014, para. 87.

30 See ECtHR, *Chkhartishvili v. Georgia*, no. 31349/20, 11 May 2023, para. 60..

31 See in particular OSCE, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (Copenhagen, 5 June-29 July 1990), which states that "*[t]his right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards."* The OSCE participating States also reaffirmed "*the right to freedom of expression, including the right to communication and the right of the media to collect, report and disseminate information, news and opinion*" in OSCE, Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, (Moscow, 3 October 1991). Moreover, in 1994, the OSCE participating States reaffirmed that "*freedom of expression is a fundamental human right and a basic component of a democratic society*" committing to "*take as their guiding principle that they will safeguard this*

1.3 Restrictions on the Rights to Freedom of Peaceful Assembly and Expression

20. Any restriction on the rights to freedom of peaceful assembly and expression must be compatible with the strict three-part test set out in, respectively, Article 21 of the ICCPR and Article 11 (2) of the ECHR, and Article 19 (3) of the ICCPR and Article 10 (2) of the ECHR. This test requires any restriction to be provided by law (requirement of legality), to be in pursuit of one or more of the legitimate aims listed exhaustively in the respective treaty/convention,[32] to be necessary in a democratic society and to respect the principle of proportionality (which *inter alia* presupposes that any imposed restriction should represent the least intrusive measure possible among those effective enough to achieve the designated objective). In addition, the restriction must be non-discriminatory (Articles 2 and 26 of the ICCPR and Article 14 of the ECHR and Protocol 12 to the ECHR[33]).

21. The grounds for restrictions listed in international instruments should not be supplemented by additional grounds in domestic legislation and should be narrowly interpreted by the authorities.[34] Restrictions shall not be applied for any purpose other than those for which they were prescribed (Article 18 of the ECHR) and must be directly related to the specific aim being pursued.

22. The requirement that any restrictions on assemblies be 'prescribed by law' not only requires that the restriction should have an explicit basis in domestic law, but also refers to the quality of the law in question.[35] While acknowledging that absolute precision is not possible and that many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice,[36] laws must be sufficiently clear and precise to enable an individual to assess whether or not his or her conduct would be in breach of the law and to foresee the likely consequences of any such breach.[37] This also means that the law must be formulated in terms that provide a reasonable indication as to how these provisions will be interpreted and applied.[38] More generally, the requirement of legality also implies that any restrictions on assemblies must be compliant with international standards.

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right" and emphasizing in this respect, that "*independent and pluralistic media are essential to a free and open society and accountable systems of government*"; see OSCE, CSCE Budapest Document 1994, Towards a Genuine Partnership in a New Era (Budapest, 21 December 1994), para. 36.

32 For Article 21 ICCPR, these are national security, public safety, public order (*ordre public*) or the prevention of disorder or crime. For Article 11 (2) of the ECHR, the aims are: the protection of public health or morals, and the protection of the rights and freedoms of others. For Article 19 (3) ICCPR: *(a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (ordre public), or of public health or morals*"; For Article 10(2) ECHR: "*in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary*."

33 Georgia ratified the Protocol no. 12 to the ECHR on 15 June 2001 and it entered into force on 1 April 2005.

34 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, paras. 28 and 130.

35 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 98.

36 See, for example, ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015, para. 109. See also ECtHR, *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 131, where the Court underlined that: "*A norm could not be regarded as a "law" unless it was formulated with sufficient precision to enable the person concerned to regulate his or her conduct: he or she needed to be able – if need be with appropriate advice – to foresee, to a degree that was reasonable in the circumstances, the consequences that a given action could entail. However, the Court went on to state that these consequences did not need to be foreseeable with absolute certainty, as experience showed that to be unattainable.*"

37 See, for example, ECtHR, *Hashman and Harrup v. the United Kingdom* [GC], no. 25594/94, 25 November 1999; *Gillan and Quinton v. the United Kingdom*, no. 4158/05, 12 January 2010; *Kudrevičius and Others v Lithuania* [GC], no. 37553/05, 15 October 2015. See also *Guidelines on Freedom of Peaceful Assembly*, para. 23; UN HRC, General Comment No. 34 on Article 19 of the ICCPR, CCPR/C/GC/34, para. 25. See also ECtHR, *The Sunday Times v. the United Kingdom (No. 1)*, no. 6538/74, paras. 48-49; and *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 131.

38 See e.g., Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, para. 58. In addition, see ECtHR, *The Sunday Times v. the United Kingdom (No. 1)*, no. 6538/74, where the Court ruled that "*the law must be formulated with sufficient precision to enable the citizen to regulate his conduct," by being able to foresee what is reasonable and what type of consequences an action may cause*."

23. The test of 'necessary in a democratic society' means that any restriction imposed on the rights of peaceful assembly and expression, whether set out in law or applied in practice, must meet a "pressing social need",[39] be proportionate to the legitimate aim pursued and the reasons justifying it must be relevant and sufficient.[40] The requirement to meet a "pressing social need" also means that a restriction must be considered imperative, rather than merely 'reasonable' or 'expedient'.[41] The means used should be proportionate to the aim pursued, which also means that where a wide range of interventions may be suitable, the least restrictive or invasive means must always be used.[42] In addition, restrictions must not impair the essence of the right, or be aimed at discouraging participation in assemblies or causing a chilling effect.[43] In particular, any restriction in the manner of assembly should not render the effective communication of the message of the assembly difficult or even impossible.[44] As the UN HRC emphasized, proportionality "*requires a value assessment, weighing the nature and detrimental impact of the interference on the exercise of the right against the resultant benefit to one of the grounds for interfering. If the detriment outweighs the benefit, the restriction is disproportionate and thus not permissible.*"[45]

24. In addition, restrictions must not be discriminatory, either directly or indirectly.[46] Restrictions must not unjustifiably target specific types of assemblies, particularly those used for political expression or opposition or those conveying a specific message or promoting the rights of certain marginalized or under-represented groups.[47]

25. Based on the foregoing, blanket legal restrictions would generally fail the proportionality test because they do not differentiate between different ways of exercising the right to freedom of peaceful assembly and preclude any consideration of the specific circumstances of each case.[48] In addition, any restrictions on assemblies should not be based on the content of the message(s) that they seek to communicate.[49] Moreover, broad powers of the public authorities and law enforcement to prohibit or disperse assemblies would not comply with the strict requirements for restrictions as underlined above.

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39 This means that a restriction must be considered imperative, rather than merely 'reasonable' or 'expedient': ECtHR, *Chassagnou v. France* [GC], nos. 25088/94, 28331/95 and 28443/95, 29 April 1999. "Necessary" is not synonymous with "indispensable", neither has it the flexibility of such expressions as "admissible", "ordinary", "useful", "reasonable" or "desirable"; see ECtHR, *The Sunday Times v. the United Kingdom (No. 1),* no. 6538/74*,* para. 59.

40 See, for example, ECtHR, *Taranenko v. Russia*, no. 19554/05, 15 May 2014. In relation to freedom of expression, see, for example, ECtHR, *Janowski v. Poland* [GC], no. 25716/94, 21 January 1999, paras. 31 and 35.

41 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 131.

42 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 131. See e.g., ECtHR, *Perinçek v. Switzerland* [GC], no. 27510/08, 15 October 2015, para. 273.

43 UN HRC, *General Comment No. 37 (2020) on the right of peaceful assembly (Article 21),* para. 36.

44 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 148.

45 *General Comment No. 37 (2020) on the right of peaceful assembly (Article 21),* para. 40.

46 Georgia ratified the Protocol no. 12 to the ECHR on 15 June 2001 and it entered into force on 1 April 2005.

47 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 102.

48 *Ibid. Guidelines on Freedom of Peaceful Assembly*, para. 133. See also UN HRC, *General Comment No. 37 (2020) on the right of peaceful assembly (Article 21),* para. 38, which states that *"[b]lanket restrictions on peaceful assemblies are presumptively disproportionate*"; Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, (Funding of associations and holding of peaceful assemblies), A/HRC/23/39, 24 April 2013, para. 63: "…*blanket bans, are intrinsically disproportionate and discriminatory measures as they impact all citizens willing to exercise their right to freedom of peacefully assembly*"; and Joint Report of UN Special Rapporteurs (2016), A/HRC/31/66, para. 30.

49 *Ibid.* ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 133. See also ECtHR, *Primov v. Russia*, no. 17391/06, 12 June 2014, para. 137: "*The Government should not have the power to ban a demonstration because they consider that the demonstrators' 'message' is wrong. It is especially so where the main target of criticism is the very same authority which has the power to authorise or deny the public gathering, as in the case at hand. Content-based restrictions on the freedom of assembly should be subjected to the most serious scrutiny by this Court*". See also UN HRC, *General Comment No. 37 (2020) on the right of peaceful assembly (Article 21),* para. 48, which underlines that "*[c]entral to the realization of the right is the requirement that any restrictions, in principle, be content neutral, and thus not be related to the message conveyed by the assembly. 57 A contrary approach defeats the very purpose of peaceful assemblies*"; and UN HRC Views, *Nikolai Alekseev v. Russian Federation*, U.N. Doc. CCPR/C/109/D/1873/2009, 2 December 2013, para. 9.6, which stated that the restriction imposed on a person's right to organize a public assembly *on a specific subject* is "*one of the most serious interferences with the freedom of peaceful assembly*".

1.4. Right to Liberty and Security of Persons

26. As the October 2025 Amendments envisage some administrative and criminal sanctions for the violation of certain provisions of the Law on Assemblies and Demonstrations consisting of administrative detention up to 60 days or imprisonment up to four years, they must also comply with Article 9 of the ICCPR, Article 5 of the ECHR, Article 37 of the UN CRC, and Article 14 of the CRPD, on the protection of liberty and security of persons,[50] which require that arrest and detention must not be arbitrary or unlawful. The UN Human Rights Committee has stated that *"[a]rrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including [in cases involving] freedom of assembly*."[51] The ECtHR has held that when the facts point to a significant probability that individual arrests and detentions "*were at least partly the result of acts and decisions which formed part of a larger strategy in relation to protests which had started peacefully and which, albeit characterized by pockets of violence, involved a vast majority of peaceful protesters*", this fails to meet the minimum standard set by Article 5 (1) (c) of the ECHR for the reasonableness of a suspicion required to justify the arrest or detention, concluding to the existence of an element of arbitrariness.[52]

2. Background and Overall Context

27. The right to freedom of peaceful assembly is guaranteed by Article 21 of the Constitution of Georgia.[53] The existing Law on Assemblies and Demonstrations was adopted in 1997.[54] Article 2 (3) of the Law provides that any restrictions imposed must be compatible with the Constitution of Georgia, be non-discriminatory, and be prescribed by law, necessary in a democratic society, and proportionate (such that the benefit of the restriction exceeds the damage caused by the restriction).

28. During the past years, several sets of amendments to the Law introducing new restrictions to the exercise of the right to freedom of peaceful assembly have been introduced and/or adopted.[55] The latest processes of amending the Law on Assemblies and Demonstrations along with related criminal and administrative laws, began following the parliamentary elections on 26 October 2024[56] and the protests that ensued. In parallel, a series of other

50 See further, UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014; and ECtHR, *Brega and Others v. Moldova*, no. 61485, 24 January 2012, paras. 37-44.

51 UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014, para. 17.

52 ECtHR, *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, 21 January 2021, paras. 464-477.

53 Article 21 of the Constitution of Georgia provides "*1. Everyone, except those enlisted in the Defence Forces or bodies responsible for state and public security, shall have the right to assemble publicly and unarmed, without prior permission. 2. The law may establish the necessity of prior notification of authorities if an assembly is held on a public thoroughfare. 3. Authorities may terminate an assembly only if it assumes an unlawful character*."

54 See Law of Georgia on Assemblies and Demonstrations (1997, as last amended 16 October 2025).

55 Amendments introduced by the Law of Georgia No. 4451 of 17 September 2024, introducing a new ground for prohibiting assemblies that allegedly promote "*affiliation with neither biological sex, affiliation with a gender different from one's biological sex, sexual relationships between persons of the same biological sex, or incest*" as per Georgia's Law on Family Values and the Protection of Minors (new paragraph 6 of Article 9 of the Law); Law of Georgia No. 176 of 13 December 2024 introducing new restrictions for participants in assemblies (new sub-paragraph (a1) and (a2) of Article 11 (2): (a1) to have a device with laser radiation and/or sharp radiation, the use of which may interfere with the activities of representatives of state agencies and/or the proper functioning of the technical means available to them; and (a2) to cover with a face mask or any other means; Law of Georgia No. 274 of 6 February 2025 (as reviewed in ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, 6 March 2025); Law of Georgia No. 710 of 24 June 2025; Law of Georgia No. 774 of 26 June 2025; Law of Georgia No. 809 of 26 June 2025.

56 See OSCE/ODIHR, *Georgia – Parliamentary Elections of 26 October 2025 - ODIHR Election Observation Mission Final Report*, 20 December 2024; see also OSCE/ODIHR, Statement of 20 December 2024, which underlines that *"[t]he elections took place amidst serious concerns about the impact of recently adopted legislation on fundamental freedoms and civil society, steps to diminish the independence of institutions involved in the election process, and pressure on voters, which combined with election day practices*

restrictive laws and amendments have been adopted, introducing new restrictions unduly impacting the exercise of the rights to freedom of association and expression.[57]

29. On 13 December 2024, the Parliament adopted further restrictions, including new prohibitions of the possession of pyrotechnic or other similar items (amended Article 11 (2) (a) of the Law), of devices with a laser beam or sharp light beam, the use of which may interfere with the activities of state officials or the proper functioning of technical equipment at their disposal (new Article 11 (2) (a^1) of the Law) and a complete ban on covering the face with a mask or any other means (new Article 11 (2) (a^2) of the Law).[58] Another set of amendments introduced on 3 February 2025 (hereinafter "the February 2025 Amendments"), was adopted by the Parliament in an accelerated procedure and promulgated by the President of Georgia on 6 February 2025. They introduced further restrictions on the exercise of the rights to freedom of peaceful assembly and freedom of expression, including the requirement of immediate notification for spontaneous assemblies, a general prohibition of holding assemblies inside closed spaces or buildings without the owner's prior written agreement, the prohibition of intentionally creating obstacles to the movement of people, of erecting temporary structures and of participating in an assembly or demonstration that was terminated in accordance with Article 13(1) of the Law, as well as considerably more severe administrative and criminal sanctions.[59]

30. In particular, the revised Article 32 of the Code of Administrative Offences (CAO) as amended in February 2025 introduced a *new* maximum length of detention for administrative offences up to 60 days (previously, up to 15 days). The February 2025 Amendments also increased the maximum fine and length of detention for several administrative offences, using the newly introduced maximum threshold of 60 days of administrative detention, including for petty hooliganism (amended Article 166 CAO),[60] disobedience to the lawful order or demand of a law enforcement officer (amended Article 173 CAO),[61] violation of the rules for organizing and holding an assembly or demonstration and other provisions of the Law on Assemblies and Manifestations (amended Article 174^1 CAO).

31. This Urgent Opinion should be read against the backdrop of the serious concerns raised previously by ODIHR, international and regional organizations and bodies, national observers and other stakeholders regarding these and earlier legislative initiatives – in particular those unduly restricting the rights to freedom of peaceful assembly, freedom of expression and freedom of association, as well as the detention, in recent months, of

compromised the ability of some voters to cast their vote without fear of retribution. In its assessment of post-election developments and complaints, ODIHR found that cases were not considered sufficiently, limiting legal remedies, and the forcible suppression of protests and numerous arrests caused grave concerns about compliance with international commitments to freedom of peaceful assembly."

57 See the Law on Transparency of Foreign Influence adopted on 28 May 2024; the Law on Foreign Agents Registration adopted on 1 April 2025, two sets of amendments to the Law on Grants adopted on 16 April and 12 June 2025 respectively, and amendments to the Organic Law on Political Associations of Citizens adopted on 16 April 2025. For legal analysis of some of these legislative developments, see ODIHR, *Urgent Opinion on the Law "On Transparency of Foreign Influence" of Georgia*, 30 May 2024; and Venice Commission, *Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence"*, CDL-AD(2025)034-e, 15 October 2025; and *Urgent Opinion on the Law of Georgia on Transparency of Foreign Influence*, CDL-AD(2024)020, 24 June 2024.

58 See <Law on Amendments to the Law of Georgia on Assemblies and Demonstrations> adopted on 13 December 2024, published on 29 December 2024.

59 See ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, 6 March 2025.

60 Fine ranging from GEL 500 to GEL 3,000 or administrative detention for a term of up to 20 days (instead of a fine of up to GEL 1,000 and up to 15 days of administrative detention provided previously).

61 Fine ranging from GEL 2,000 to GEL 5,000 or administrative detention for a term of up to 60 days (instead of a fine of up to GEL 3,000 and up to 15 days of administrative detention provided previously).

peaceful protesters, human rights defenders and opposition politicians contrary to international human rights standards.[62]

3. Justifications Invoked for Introducing the October 2025 Amendments

32. The Amendments were submitted to the Parliament on 8 October 2025 and were adopted pursuant to an accelerated procedure, with the three readings leading to the adoption of the Amendments on 16 October 2025 and promulgation by the President of the Republic on the same day. They entered into force upon publication on 17 October 2025.

33. Overall, the Amendments to the Code of Administrative Offences (CAO) and to the Criminal Code introduce a far more punitive enforcement framework, envisaging even more severe administrative penalties than those already introduced by the February 2025 Amendments, as well as criminal penalty of imprisonment in case of repeated violations of the CAO.

34. The Explanatory Statements to both sets of amendments underline the need to prevent "socially dangerous actions directed against public order and the rule of law", noting that the existing administrative liability regime fails to have a deterrent effect. The initiators further underline that "*intentionally creating obstacles to the movement of people or transport, in itself goes beyond the legitimate scope of freedom of expression and creates significant risks to public safety*", which justifies the need to envisage a more punitive framework for those already subject to administrative liability for partially or completely blocking a roadway. The Explanatory Statement to the Amendments to the Criminal Code also emphasizes that "*the repeated commission of the above actions poses a threat to the life and health of others, as it makes it impossible for emergency, fire and other emergency services to respond promptly, for which it is necessary to establish a proportionate measure of responsibility*". It further underlines that the "*establishment of criminal liability for the above-mentioned actions is a proportionate and necessary measure to ensure a fair balance between the freedom of assembly and expression and the rights of others*" and that "*the criminal liability envisaged in Article 347 of the current version of the Criminal Code of Georgia cannot ensure general prevention of crime*".

62 See e.g., OSCE/ODIHR Statements on the Situation in Georgia of 7 October 2025 and of 20 December 2024; Statement of the UN Special Rapporteur on the situation of human rights defenders of 5 September 2025, as endorsed by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; the Statements of the EU High Representative/Vice President Kallas and Commissioner for Enlargement Kos on Georgia of 5 October 2025 and of 7 February 2025; European Parliament's Statement of 9 July 2025. See also European Parliament resolution on Georgia's worsening democratic crisis following the recent parliamentary elections and alleged electoral fraud (2024/2933(RSP)); CoE Commissioner for Human Rights Statement of 1 July 2025 and of 4 December 2024; Joint Statement of 28 January 2025 of UN Special Rapporteurs on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on extrajudicial summary or arbitrary executions; on the Rights to Freedom of Peaceful Assembly and of Association; on the situation of human rights defenders; on the right to freedom of opinion and expression, on the independence of judges and lawyers; see also the various statements of the Public Defender of Georgia and national stakeholders and non-governmental organizations. See also ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*; and Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025. With respect to the amendments unduly impacting the exercise of the rights to freedom of association and freedom of expression, including the Law on Foreign Agents Registration, amendments to the Law on Grants and the Law on Transparency of Foreign Influence (adopted on 28 May 2024), see also ODIHR, *Urgent Opinion on the Law "On Transparency of Foreign Influence" of Georgia*, 30 May 2024; and Venice Commission, *Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence"*, CDL-AD(2025)034-e, 15 October 2025; and *Urgent Opinion on the Law of Georgia on Transparency of Foreign Influence*, CDL-AD(2024)020, 24 June 2024.

35. A number of questions may be raised as to the necessity of adopting the October 2025 Amendments, given both the generic nature of the stated justifications and the non-alignment of these rationales with international human rights law and standards.[63]

36. First, the Explanatory Statements appear to refer to abstract "public concerns", without pointing to a substantiated concrete risk analysis concerning particular, well-evidenced threats to public safety and the life and health of others.[64] As underlined in the ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly, "*preventive restrictions of individual rights are only possible in exceptional cases where there is a clear and present danger that a crime will be committed. States should always seek to ensure that any preventive intervention that negatively impacts an individual's right to freedom of peaceful assembly is based on objective evidence that without such intervention, the individual will commit a 'concrete and specific' offence of significance (constituting, for example, actual violence or serious criminal damage)*".[65] Restrictions to the right to freedom of peaceful assembly can only be justified if they are necessary to avert a real, and not merely a hypothetical risk to public order.[66]

37. Second, the October 2025 Amendments are not based on any in-depth and comprehensive impact assessment, and the process of the adoption of these amendments was marked by a lack of meaningful consultation with those potentially affected (civil society, human rights defenders and the wider public). The reasons adduced by the national authorities to justify the October 2025 Amendments are generally neither relevant nor sufficient, and fail to evidence why the existing legal framework is insufficient and/or ineffective.[67]

38. Third, with respect to the stated justification for resorting to criminal offences in order to strengthen the deterrent effect (on the purported basis that administrative liability is ineffective in this respect), it must be emphasized that the legitimacy of criminal law depends on it being used sparingly, *ultima ratio*, as reflected in international law and practice.[68] This was expressed, for example, in the EU approach to Criminal Law which

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63 See e.g. *General Comment No. 37 (2020) on the right of peaceful assembly (article 21)*, para. 7: The "*scale or nature [of peaceful assemblies] can cause disruption, for example of vehicular or pedestrian movement or economic activity. These consequences, whether intended or unintended, do not call into question the protection such assemblies enjoy*."

64 See e.g., ODIHR-Venice Commission, *Joint Opinion on Draft Law no. 6674 on Introducing Changes to some Legislative Acts to ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance and on Draft Law no. 6675 on Introducing Changes to the Tax Code of Ukraine to ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance*, CDL-AD(2018)006-e, para. 36.

65 See also., *General Comment No. 37 (2020) on the right of peaceful assembly (article 21)*, para. 52 which provides "*An unspecified risk of violence, or the mere possibility that the authorities will not have the capacity to prevent or neutralize the violence emanating from those opposed to the assembly, is not enough; the State must be able to show, based on a concrete risk assessment, that it would not be able to contain the stuation, even if significant law enforcement capability were to be deployed*".

66 See e.g., European Court of Human Rights, *Partidul Comunistilor (Nepeceristi) and Ungureanu v. Romania*, no. 46626/99, 3 February 2005, para. 48; and *Gorzelik and Others v. Poland*, no. 44158/98, 17 February 2004, paras. 95-96, where the Court has specifically held that *"[a]ny interference must correspond to a 'pressing social need'*" and the reasons adduced by the national authorities to justify it should be "*relevant and sufficient*", with "*evidence of a sufficiently imminent risk to democracy*"; see also Court of Justice of the European Union (CJEU), *Commission v. Hungary* Case C-78/18, 18 June 2020, para. 91, where the CJEU also underlined the need to establish "*a genuine, present and sufficiently serious threat to a fundamental interest of society*";66 and UN Human Rights Committee, *Mr. Jeong-Eun Lee v. Republic of Korea*, Communication No. 1119/2002, U.N. Doc. CCPR/C/84/D/1119/2002(2005), para. 7.2. See also e.g., ODIHR-Venice Commission, *Joint Opinion on Draft Law no. 6674 on Introducing Changes to some Legislative Acts to ensure Public Transparency of Information on Finance Activity of Public Associations and of the Use of International Technical Assistance and on Draft Law no. 6675 on Introducing Changes to the Tax Code of Ukraine to ensure Public Transparency of the Financing of Public Associations and of the Use of International Technical Assistance*, CDL-AD(2018)006-e, para. 36; and Venice Commission, CDL-AD(2019)002, *Report on Funding of Associations*, para. 81, where ODIHR and the Venice Commission have observed, *"[a]bstract 'public concern' and 'suspicions' about the legality and honesty of financing of NGO sector, without pointing to a substantiated concrete risk analysis concerning any specific involvement of the NGO sector in the commission of crimes, such as corruption or money-laundering cannot constitute a legitimate aim justifying restrictions to this right*".

67 ODIHR, Guidelines on Democratic Lawmaking for Better Laws (16 January 2024), Principle 5 on Evidence-based Lawmaking.

68 See e.g., ECtHR, *Beizaras and Levickas v. Lithuania*, ECtHR, no. 41288/15, 14 January 2020, para. 111, where the Court acknowledged that "*criminal sanctions, including against the individuals responsible for the most serious expressions of hatred, inciting others to violence, could be invoked only as an ultima ratio measure […] That being so, it has also held that where acts that constitute serious*

states: "*whereas in view of its being able by its very nature to restrict certain human rights and fundamental freedoms of suspected, accused or convicted persons, in addition to the possible stigmatising effect of criminal investigations, and taking into account that excessive use of criminal legislation leads to a decline in efficiency, criminal law must be applied as a measure of last resort (ultima ratio) addressing clearly defined and delimited conduct, which cannot be addressed effectively by less severe measures and which causes significant damage to society or individuals… "*[69] This is also reflected for instance in the UN Guidelines on the Role of Prosecutors (1990).[70]

39. Hence, the criminalization of certain misbehaviours should be duly justified in light of the significant harm to society or individuals and should remain exceptional and limited to serious cases where use of the weighty tool of criminal law can meet the requirements of necessity and proportionality. This is also reflected in the Criminal Code of Georgia which underlines that an act shall not constitute a crime, even if it formally contains the elements of an offence provided for by the Criminal Code, if it has neither caused harm that would necessitate the criminal liability of the perpetrator, nor created a danger of such harm (Article 7).

40. In several recent Opinions, ODIHR has raised concerns about the tendency of over-criminalizing certain conduct that may not meet the threshold of causing significant damage to society or individuals. This creates a risk of potentially criminalizing the mere expression of opinion or ideas, in particular opinions and ideas contravening those in power, thus potentially violating the rights to political debate and participation, freedom of opinion and expression, and other fundamental freedoms.[71] Moreover, penalties must correspond to the guilt of the individual and be commensurate with the gravity of the crime committed, be proportionate and effective. One significant dimension of the fair and proportionate application of criminal penalties is that courts must take into account all circumstances of the individuals and the crime(s) committed by them, in assessing appropriate and proportionate penalties.[72]

41. Further, as underlined in the ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly, detention should be used only if there is a pressing need to prevent the commission of serious criminal offences and where an arrest is absolutely necessary (e.g., due to violent behaviour).[73] States should ensure that protesters are not detained simply for expressing disagreement with police actions during an assembly.[74] The UN Human Rights Committee has stated that *"[a]rrest or detention as punishment for the*

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offences are directed against a person's physical or mental integrity, only efficient criminal-law mechanisms can ensure adequate protection and serve as a deterrent factor (see Identoba and Others, cited above, § 86, and the case-law cited therein). The Court has likewise accepted that criminal-law measures were required with respect to direct verbal assaults and physical threats motivated by discriminatory attitudes". See also ODIHR, *Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework* (2018), p. 39, and references cited therein.

69 European Parliament, *Resolution of 22 May 2012 on an EU approach to criminal law* (2010/2310(INI)), European Parliament, P7_TA(2012)0208, Point I, cited in ODIHR, *Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework* (2018), p. 39.

70 See *UN Guidelines on the Role of Prosecutors* (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990), para. 18: "*In accordance with national law, prosecutors shall give due consideration to waiving prosecution, discontinuing proceedings conditionally or unconditionally, or diverting criminal cases from the formal justice system, with full respect for the rights of suspect(s) and the victim(s). For this purpose, States should fully explore the possibility of adopting diversion schemes not only to alleviate excessive court loads, but also to avoid the stigmatization of pre-trial detention, indictment and conviction, as well as the possible adverse effects of imprisonment*."

71 See e.g., *ODIHR Urgent Opinion on the Draft Amendments to the Criminal Code of the Republic of Cyprus* (3 October 2024), para. 34; *ODIHR Opinion on Certain Articles of the Bill No. 1660 Relating to Countering Terrorism, Public Security, Protection of Personnel in Service and Prison Regulations in Italy (27 May 2024)*, para. 40; *ODIHR Comments on the Criminalization of "Separatism" and Related Offences in Moldova (4 December 2023), para. 40; ODIHR Note on the Shanghai Convention on Combating Terrorism, Separatism and Extremism* (21 September 2020), para. 31.

72 See *Eurojust Annual Report* 2016, page 13.

73 See *Guidelines on Freedom of Peaceful Assembly*, para. 220 and references therein.

74 *Ibid. Guidelines on Freedom of Peaceful Assembly*, para. 220 and references therein.

legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including [in cases involving] freedom of assembly."[75] Moreover, in accordance with Article 5 (1) of the ECHR, the notion of "arbitrariness" extends beyond lack of conformity with national law, meaning that deprivation of liberty may be lawful in terms of domestic law but still arbitrary and thus contrary to the ECHR.[76]

42. With respect to the alleged need to ensure a fair balance between the exercise of the right to freedom of peaceful assembly and the rights of others, it must be reiterated that a core component of the right to freedom of peaceful assembly is the ability of the assembly participants to choose the manner and place where they can best communicate their message to their desired audience.[77] States have the duty to facilitate assemblies at the organizer's preferred location and within 'sight and sound' of the intended audience unless compelling reasons (that conform with the permissible justifications for imposing limitations under Article 21 ICCPR or Article 11(2) ECHR) necessitate a change of venue.[78] The venue may indeed be paramount for the message of the assembly to reach the target audience.

43. In addition, given the importance of freedom of peaceful assembly in a democratic society, assemblies should be regarded as an *equally legitimate use of public space* as other, more routine uses of such space, such as commercial activity or pedestrian and vehicular traffic.[79] When balancing the rights of others against the competing right to freedom of peaceful assembly, the latter should prevail where there is no adequate alternative public space that would allow an assembly to take place in 'sight and sound' of its intended audience and if this does not impose unnecessary and disproportionate burdens on others' rights.[80] Neither temporary disruption of vehicular or pedestrian traffic, nor opposition to an assembly, are of themselves legitimate reasons to impose restrictions on an assembly.[81] Where demonstrators do not engage in acts of violence, public authorities must show a certain degree of tolerance towards peaceful gatherings so that the freedom of assembly guaranteed by international instruments is not to be deprived of all substance.[82]

44. The Explanatory Statements also infer that assembly are public safety hazards, noting in particular that emergency services cannot be ensured because of the assemblies. It should be reiterated that states retain primary responsibility for the protection of public safety and security, have a positive obligation to provide adequately resourced policing arrangements and intervene when necessary, while also ensuring proper access to emergency services during assemblies. Mere traffic disruptions need to be tolerated. As underlined in the Guidelines on Freedom of Peaceful Assembly, public safety concerns may arise when the presence or conduct of assembly participants creates a significant and imminent danger of physical injury for other participants, public authorities or passers-

75 UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014, para. 17.
76 See ECtHR, *Creangă v. Romania* [GC], no. 29226/03, 23 February 2012, para. 84; and ECtHR, *A. and Others v. the United Kingdom* [GC], no. 3455/05, 19 February 2009, para. 164.
77 See ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 147. See also, for example, UN HRC, *Turchenyak et al. v. Belarus*, CCPR/C/108/D/1948/2010 and Corr.1, 24 July 2013, para. 7.4: "*The organizers of an assembly generally have the right to choose a location within sight and sound of their target audience*." See also e.g., ECtHR, *Sáska v. Hungary*, no. 58050/08, 27 November 2012, para. 21. See also *ODIHR Urgent Interim Opinion on Article I of the Draft Act on "Some Measures to Improve the Security Situation in the Slovak Republic"*, 25 June 2024, para. 25.
78 See ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 82.
79 *Ibid. Guidelines on Freedom of Peaceful Assembly*, paras. 22 and 62.
80 *Ibid. Guidelines on Freedom of Peaceful Assembly*, para. 83. *General Comment No. 37 (2020) on the right of peaceful assembly (article 21)*, paras. 6, 57; ECtHR, *Annenkov v. Russia*, App. 31475/10, 25 July 2017, para. 122: *"… this right covers both private "assemblies" and "assemblies" in public places …*"
81 *Ibid. Guidelines on Freedom of Peaceful Assembly*, para. 143.
82 See ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015; *Oya Ataman v. Turkey*, no. 74552/01, 5 December 2006; *Bukta and Others v. Hungary*, no. 25691/04, 17 July 2007.

by, or of damage to property; in such cases, extra precautionary measures should generally be preferred over more extensive restrictions on the assembly itself. While organizers and stewards may provide assistance.[83]

4. Increased Sanctions for Non-Compliance with the Law on Assemblies and Manifestations

45. As underlined above, the 2025 February Amendments introduced a new maximum length of detention for administrative offences up to 60 days, instead of 15 days previously (Article 32 of the CAO). In its March 2025 Opinion, ODIHR recommended the removal of **the imposition of administrative detention introduced by the Amendments as a sanction in case of violation of the Law on Assemblies and Demonstrations,**[84] noting that the possibility of imposing up to 60 days of administrative detention as a penalty for petty hooliganism, violation of the rules for organizing and holding an assembly or demonstration, or disobedience to the lawful order or demand of a law enforcement officer, when such actions are peaceful and non-violent, would constitute disproportionate interference with an individuals' right to freedom of peaceful assembly, and right to liberty.

46. The October 2025 Amendments go even further as they remove from the CAO the possible alternative sanctions of a fine and only contemplate the imposition of administrative detention for a term of up to:

- **60 days** for the carrying "*firearms, explosive, flammable, radioactive substances, cold weapons or pyrotechnic products*", or "*an object or substance that is used or can be used for the purpose of causing harm to the life and health of [assembly participants or others]*", or for participating in an assembly or demonstration that has been terminated at the request of the Ministry of Internal Affairs (MIA) of Georgia in accordance with Article 13(1) of the Law on Assemblies and Demonstrations,[85] as per amended Article 174^1 (9) of the CAO; and
- **15 days (20 days for organizers)** with confiscation of the object of the offense for covering one's face with a mask or any other means during assemblies (Article 11 (2) (a^2) of the Law), carrying tear gas, nerve agent, or/and a poisonous substance (Article 11 (2) (c) of the Law), deliberately creating obstacles to the movement of people or vehicles – including if the roadway is partially or completely blocked by assembly participants (Article 11 (2) (e) of the Law), or erecting temporary construction posing a threat to assembly participants or other persons, interfering with the maintenance of public order and security by the police, or hindering the normal functioning of an enterprise, institution or organization ((Article 11 (2) (f) of the Law), as per new Article 174^1 (10) of CAO.

47. Alternatives to administrative detention in the form of fines of 5,000 GEL or 15,000 GEL for organizers are only envisaged for pregnant women, mothers with children under the

83 ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 138.
84 ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, para. 93. See also Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025, para. 47.
85 i.e., for the violation *en masse* of the requirements of Article 11(1) (call to overthrow the constitutional order of Georgia or to violently change it, to violate the independence of the country, to violate the territorial integrity of the country, or call that amount to propaganda of war or violence, incites national, ethnic, religious or social hatred).and (2)(a-c) of this Law are violated en masse

age of twelve, persons under the age of eighteen, persons with severe or significant disabilities (Article 32(3) of CAO).

48. In addition, the October 2025 Amendments to Article 347 of the Criminal Code now criminalize the above-mentioned acts sanctioned under Article 174[1] (9) and (10) of the CAO, with **imprisonment of up to one year where someone has a past record of committing these offenses**, or **up to two years** for doing so repeatedly. When committed by a minor, such penalties are replaced by a fine or by corrective labour for a term of up to one year or by imprisonment for a term of up to one year (Article 347(3) of the Criminal Code). In case of violation of the rules for holding an assembly or demonstration by an organizer results in "serious consequences", the penalty may reach **four years of imprisonment** (Article 347(4) of the Criminal Code) as opposed to a fine or house arrest for a term of six months to two years, or corrective labour for a term of up to one year previously.

49. As further elaborated below, **the October 2025 Amendments raise serious concerns about their compliance with international human rights standards, particularly Articles 9, 19 and 21 of the ICCPR and Articles 5, 10 and 11 of the ECHR and should be repealed altogether. ODIHR also reiterates the previous recommendations with respect to the February 2025 Amendments.**

4.1. Suppression of Alternative Sanctions to Administrative Detention and Lack of Proportionality

50. Where any sanction is imposed on organizers or participants of a peaceful assembly for their unlawful conduct, such sanctions must be necessary, proportionate, non-discriminatory in nature and must not be based on ambiguous or overbroad offences.[86] In this respect, as underlined in the March 2025 Urgent Opinion, much of the conduct prohibited under Article 11 (2) of the Law on Assemblies and Demonstrations is vaguely and/or broadly formulated and may be subject to arbitrary application.[87] This may lead to targeted enforcement against political dissidents or opposition, or human rights defenders, or others exercising their rights to freedom of peaceful assembly and freedom of expression.[88] This also risks unduly impacting the work of journalists or other media actors, as well as assembly monitors, who may be detained or criminally prosecuted for their routine newsgathering or monitoring work, for instance if they are (wrongly) considered by the authorities to have repeatedly participated in unlawful assemblies simply because they are reporting on these assemblies that are a matter of public concern. In addition, as underlined in the Guidelines, no blanket or routine restrictions on the wearing of masks and face-coverings should be imposed.[89] The wearing of masks and face coverings at assemblies for expressive purposes is a form of communication

86 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 222; UN HRC, General Comment No. 37 (2020) on the right of peaceful assembly (Article 21), para. 67.

87 ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, para. 65 (Article 11 (2) (f) "obstruct"), para. 69 (Article 13 (1) of the Law "mass violations"), para. 70 ("covering the face with a mask or any other means" (new Article 11 (2) (a2)). See also Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025, paras. 30 and 33.

88 ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, paras. 65, 69-70. See also ODIHR, *Urgent Opinion on Proposed Amendments to the Law of Georgia on Assemblies and Demonstrations and to the Administrative Offences Code of Georgia*, 6 November 2023, para. 50.

89 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 153, and references cited therein. See also UN HRC, *General comment No. 37 (2020) on the right of peaceful assembly (Article 21)*, para. 60, which states that *"[t]he anonymity of participants should be allowed unless their conduct presents reasonable grounds for arrest, or there are other similarly compelling reasons, such as the fact that the face covering forms part of a symbol that is, exceptionally, restricted for the reasons referred to above […]. The use of disguises should not in itself be deemed to signify violent intent."*

protected by the rights to freedom of speech and assembly, and may occur in order to express particular viewpoints or religious beliefs, to ensure individual protection in case of imminent exposure to chemical irritants or to ensure anonymity to protect an assembly participant from retaliation.[90] The wearing of masks or other face coverings at a peaceful assembly should not be prohibited where there is no demonstrable evidence of imminent violence; an individual should not be required to remove a mask unless his/her conduct creates probable cause for arrest and the face covering prevents his/her identification[91]

51. The nature and severity of penalties – including those imposed for conduct involving a degree of disturbance of public order[92] – is a relevant factor when assessing the necessity and proportionality of particular restrictions.[93] Unnecessary or disproportionately harsh sanctions for behaviour during assemblies could inhibit the holding of such events and have a chilling effect that may prevent participants from attending.[94] The ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly make clear that penalties for minor offences that do not threaten to cause or result in significant harm to public order or to the rights and freedoms of others should accordingly be low and the same as minor offences unrelated to assemblies.[95] In cases involving minor administrative violations, it may be inappropriate to impose any sanction or penalty at all on assembly participants and organizers.[96] Peaceful protesters should not, in principle, be rendered subject to the threat of a criminal sanction,[97] and especially to custodial sentences/deprivation of liberty.[98] In *Chkhartishvili v. Georgia* (2023), which involved participants throwing objects (dried beans) at police officers and a refusal to follow a police order leading to such participants being sentenced to eight days' administrative detention as per Article 173 of the CAO, the ECtHR emphasized that the conduct in question was neither violent (it did not cause any injuries to the police officers and could hardly be aimed at causing physical harm to them) nor was it sufficiently serious to justify the imposition of a custodial term.[99]

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90 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 153, and references cited therein. See also UN HRC, *General comment No. 37 (2020) on the right of peaceful assembly (Article 21)*, para. 60, which states that *"[t]he anonymity of participants should be allowed unless their conduct presents reasonable grounds for arrest, or there are other similarly compelling reasons, such as the fact that the face covering forms part of a symbol that is, exceptionally, restricted for the reasons referred to above […]. The use of disguises should not in itself be deemed to signify violent intent."*

91 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 153, and references cited therein. See also UN HRC, *General comment No. 37 (2020) on the right of peaceful assembly (Article 21)*, para. 60, which states that *"[t]he anonymity of participants should be allowed unless their conduct presents reasonable grounds for arrest, or there are other similarly compelling reasons, such as the fact that the face covering forms part of a symbol that is, exceptionally, restricted for the reasons referred to above […]. The use of disguises should not in itself be deemed to signify violent intent."*

92 See e.g., ECtHR, *Ekrem Can and Others v. Turkey*, no. 10613/10, 8 March 2022.

93 For example, ECtHR, *Peradze and Others v. Georgia*, no. 5631/16, 15 December 2022, para. 35: "*The nature and severity of the penalties imposed are also factors to be taken into account when assessing the proportionality of an interference in relation to the aim pursued. Where the sanctions imposed on the demonstrators are criminal in nature, they require particular justification. A peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction, and notably to deprivation of liberty. Thus, the Court must examine with particular scrutiny the cases where sanctions imposed by the national authorities for non-violent conduct involve a prison sentence …*". Similarly, ECtHR, *Kotov v. Russia*, nos. 49282/19 and 50346/19, 26 November 2024, para. 58; and ECtHR, *Chernega and Others v. Ukraine*, no. 74768/10, 18 June 2019, para. 221.

94 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 222.

95 *Ibid.*

96 See ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015, para. 149: "*At the same time, the freedom to take part in a peaceful assembly is of such importance that a person cannot be subject to a sanction – even one at the lower end of the scale of disciplinary penalties – for participation in a demonstration which has not been prohibited, so long as that person does not himself commit any reprehensible act on such an occasion*", citing ECtHR, *Ezelin v. France*, no. 11800/85, 26 April 1991, para. 53. The Court has held that this is true also when the demonstration results in damage or other disorder (see *Taranenko v. Russia*, no. 19554/05, 15 May 2014, para. 88).

97 For example, ECtHR, *Akgöl and Göl v. Turkey*, nos. 28495/96 and 28516/06, 17 May 2011, para. 43; ECtHR, *Gün and Others v. Turkey*, no. 8029/07, 18 June 2013, para. 83; ECtHR, *Ekrem Can and Others v. Turkey*, no. 10613/10, 8 March 2022, para. 92; ECtHR, *Chkhartishvili v. Georgia*, no. 31349/20, 11 May 2023, para. 60.

98 E.g., ECtHR, *Murat Vural v. Turkey*, no. 9540/07, 21 October 2014, para. 66; ECtHR, *Mariya Alekhina and others v. Russia*, no. 38004/12, 17 July 2018, para. 228. ECtHR, *Taranenko v. Russia*, 19554/05, 15 May 2014, para. 87; ECtHR, *Kudrevičius v. Lithuania*, no. 37553/05, 15 October 2015 [GC], para. 146.

99 ECtHR, *Chkhartishvili v. Georgia*, no. 31349/20, 11 May 2023, paras. 57-60.

52. The October 2025 Amendments introduce even harsher administrative penalties for violations of the Law on Assemblies and Demonstrations, up to 15 days of administrative detention (20 days for organizers) (Article 174[1] (10) of the CAO) instead of the previous alternative fine of 2,000 GEL or administrative detention of up to 7 days,[100] or up to 60 days of administrative detention (Article 174[1] (9) of the CAO), without the alternative fine of 5,000 GEL provided previously.[101] It is noted that Article 174[1] of the CAO is the only provision of the CAO that envisages solely the imposition of the most serious administrative penalty, i.e., administrative detention of 60 days, without the possibility of alternative less restrictive sanctions, such as warning or fines.[102]

53. First, it is recalled that the amendments to Article 32 of the CAO introduced in February 2025 had already quadrupled the maximum duration of possible administrative detention that may be imposed for administrative offences, raising it to 60 days instead of 15 days previously. At the time, this new maximum sanction had been provided to ten administrative offences, the majority of which directly or indirectly linked to the exercise of the right to freedom of peaceful assembly.[103] Although Article 32 of the CAO provides that administrative detention should only be applied in exceptional cases, the changes introduced by the October 2025 Amendments – which envisages solely administrative detention under Article 174[1] (9) and (10) for certain violations of the Law on Assemblies and Demonstrations – *de facto* normalize the use of such penalties, primarily in cases involving alleged misbehaviours that may be committed in the context of exercising one's right to freedom of peaceful assembly. This marks a sharp departure from the approach that used to be reflected in the previous versions of the CAO – before February 2025, where the maximum of 15 days administrative detention was reserved for a limited set of offences, not necessarily linked to the holding of assemblies or demonstrations, save for the blocking a courthouse entrance, or holding assemblies at the place of residence of a judge or in common courts of Georgia (former Article 174[1] (3)) and violations of Articles 9, 11 and 11[1] of the Law on Assemblies and Demonstrations.[104] By significantly increasing administrative detention periods, expanding their application and normalizing their use, the February 2025 Amendments combined with the October 2025 Amendments distort even more the overall coherence of the CAO's gradation of

100 For covering one's face with a mask or other means during protests, carrying tear gas, nerve agent, or/ and a poisonous substance, intentionally obstructing movement of people or transport, erecting an unsafe or obstructive structure during a demonstration, and partial or complete blockage of a roadway.

101 For possessing prohibited items (such as firearms or pyrotechnics) and other dangerous objects or substances, as well as for participation in an assembly which has been terminated by the Ministry of Internal Affairs.

102 Other provisions providing for up to 60 days of administrative detention envisage the possibility of alternative fines (see Articles 45, 1002, 166, 1662, 173, 17316).

103 Repeated commission of petty hooliganism (amended Article 166(2)), repeated commission of vandalism (amended Article 1662 (2)), disobedience to the lawful order or demand of several law enforcement office-holders (amended Article 173 (1)) or verbal abuse, swearing, persistent insults and/or other offensive actions against such law enforcement office-holders (amended Article 173 (2)) and repeated commission of such administrative offences (amended Article 173 (3)), verbal abuse, swearing, persistent insults and/or other offensive actions against various listed state-political officials (new Article 17316), and for violations of the rules for organizing and holding an assembly or demonstration (amended Article 1741).

104 See e.g., Failure to pay the fine for the failure to appear before the military conscription commission with the intention of evading military service or for the failure to appear when called for military reserve service with the intention of evading military reserve service, as a stand alone penalty (Article 1971 and Article 1973); Leaving the scene of a road accident or not complying with a police officer's/traffic controller's demand to stop the vehicle, when this resulted in the creation of an accident situation or interruption of traffic (Article 123(4) as an alternative to a fine of GEL 500), Repeated operation of a vehicle without a driving license during one year (Article 121), as an alternative to a fine of GEL 1,500; for the repeated misuse of the single emergency (rescue) service call number '112' during one year (Article 17415), as an alternative to a fine of GEL 1,500. For the "Illegal manufacturing, purchase, storage, transportation, transfer and/or use of a small quantity of narcotic drugs" (Article 45), the provision specifies that administrative detention of up to 15 days should be applied *only in exceptional cases*, if the application of the fine of GEL 500 is considered insufficient after taking into account the circumstances of the case and the person of the offender; similarly, for the "Performing or servicing foreign exchange transactions without a licence" or "Unreasonable refusal by the employee of a foreign exchange institution to exchange foreign currency into national currency" (Article 178 (1) and (2) respectively), the provision specifies that the administrative detention of up to 15 days could be applied but only *"if the application of the fine seems insufficient after taking into account the circumstances of the case and the person of the offender*".

administrative sanctions, which ought to ensure that penalties remain proportionate to the harm they may cause.

54. Second, possible alternatives to administrative detention such as fines, which were already disproportionately high, have been completely removed from Article 174[1] (9) and are not envisaged in Article 174[1] (10) of the CAO. Warnings are also excluded for the above-mentioned misconduct by Note 2 under Article 174[1] of the CAO. This *de facto* limits the adjudicative functions of the court/tribunal. As a consequence, this results in harsher sanctions being imposed on peaceful protesters. In practice, having a reasonable range of possible sanctions that vary in severity facilitates compliance with the principle of proportionality when the competent body has to decide on a sanction.[105] In that respect, limiting the range of exclusively to the most serious– administrative detention – for conduct which does not reach the requisite level of seriousness (e.g., mere wearing of a mask or carrying laser and light-beam devices or participation in an illegal – but potentially peaceful – assembly) is clearly disproportionate. As underlined in the ODIHR-Venice Commission Guidelines, unnecessary, or disproportionately harsh penalties can also be, in themselves, sufficient to constitute a violation of the right to freedom of peaceful assembly.[106] The ECtHR has similarly held that "*[t]he detention of an individual is such a serious measure that it is justified only as a last resort where other, less severe measures have been considered and found to be insufficient to safeguard the individual or public interest which might require that the person concerned be detained*".[107] Detention should be used only if there is a pressing need to prevent the commission of serious criminal offences and where an arrest is absolutely necessary (e.g., due to violent behaviour).[108] The ECtHR has also made clear that it will examine with particular scrutiny all cases where sanctions imposed by national authorities for non-violent conduct involve a prison sentence.[109] The UN HRC has also emphasized that administrative detention, where criminal prosecution is not contemplated, presents severe risks of arbitrary deprivation of liberty.[110]

55. Third, the unwarranted removal of alternative sanctions for non-violent actions is punitive to an excessive degree. Although classified as administrative offences, the nature and severity of the penalty, which involves as a default sanction the deprivation of liberty, may qualify as a criminal sanction for the purpose of Article 14 of the ICCPR and Article 6 of the ECHR,[111] while lacking the safeguards of a criminal trial. This also means that administrative detention will become the default sanction for the violations of Article 11(2)(a), (a2), (c), (e)-(g) of the Law on Assemblies and Demonstrations – which do not involve violent conduct, and will be applied automatically, without any assessment as to the necessity of the detention on a case-by-case basis. As such, this may qualify as an arbitrary deprivation of liberty in violation of Article 5 (1) (c) of the ECHR.[112] States should ensure that protesters are not detained simply for expressing disagreement with police actions during an assembly.[113]

56. A fundamental element to be considered is whether there are sufficient safeguards against arbitrariness, including the existence of an effective remedy by which the "lawfulness"

105 See e.g., (2014 ODIHR-Venice Commission *Opinion on Disciplinary Liability of Judges in the Kyrgyz Republic*, para. 64.
106 ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 36.
107 See e.g., *S., V. and A. v. Denmark* [GC], nos. 35553/12 and 2 others, 22 October 2018, para. 75; and ECtHR, *Dzerkorashvili and Others v. Georgia*, no. 70572/16, 2 March 2023, para. 99.
108 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 220 and references therein.
109 See ECtHR, *Peradze and Others v. Georgia*, no. 5631/16, 15 December 2022, para. 35.
110 See UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014, para. 15.
111 See ECtHR, *Engel and Others v. the Netherlands*, nos. 5100/71 and 4 others, 8 June 1976, paras. 82-83.
112 See e.g., ECtHR, *Dzerkorashvili and Others v. Georgia*, no. 70572/16, 2 March 2023, paras. 104-105.
113 *Ibid. Guidelines on Freedom of Peaceful Assembly*, para. 220 and references therein.

and "length" of one's detention may be contested. In this respect, it is worth referring to a recent judgment of the ECtHR, which examined whether there was an effective remedy against administrative arrest and detention under Georgian law, and concluded that the effectiveness of domestic remedies was not sufficiently certain in practice.[114]

57. Finally, the introduction of harsher, disproportionate penalties is likely to inhibit participation in assemblies, further amplifying the chilling effect on the exercise of the right to freedom of peaceful assembly, that was already noted in the ODIHR Urgent Opinion in March 2025 with respect to the substantively increased fines and administrative detention.[115] Indeed, a chilling effect may arise, in the words of the ECtHR, "*where a person engages in 'self-censorship', due to a fear of disproportionate sanctions or a fear of prosecution under overbroad laws. This chilling effect works to the detriment of society as a whole.*"[116]

58. In light of the foregoing, it is emphasized that **administrative detention should not be included as a sanction in case of violation of the Law on Assemblies and Demonstrations.**[117] Indeed, the possibility to impose up to 60 days of administrative detention, when the misconduct is peaceful and non-violent, would constitute a disproportionate interference in an individual's rights to freedom of peaceful assembly and to liberty.

59. It must also be reiterated that prompt judicial supervision of the lawfulness of the administrative detention, in accordance with Article 9 (4) of the ICCPR and Article 5 (4) of the ECHR should be ensured. In this respect, where a person is detained under the second limb of Article 5 (1) (c) of the ECHR outside the context of criminal proceedings, the period needed between a person's arrest for preventive purposes and the person's prompt appearance before a judge should be shorter than in the case of pre-trial detention in criminal proceedings, and should be a matter of hours rather than days.[118]

4.2. *Fines Imposed in Case of Administrative Offences Committed by Pregnant Women, Women with Children Under the Age of 12, Persons under the Age of 18 and Persons with Severe or Significant Disabilities*

60. Article 32 (3) of the CAO provides that administrative detention is not allowed to be imposed on pregnant women, mothers with children under the age of twelve, persons under the age of eighteen, persons with severe or significant disabilities. In this respect, unless a specific definition is provided in other applicable legislation, the wording "persons with severe or significant disabilities" lacks legal certainty and it remains unclear how this terminology should be interpreted in practice and which authority or body is competent to determine whether a disability qualifies as "severe" or "significant". This ambiguity may give rise to challenges in practical implementation, particularly in relation to individuals with non-visible disabilities or mental health conditions, which may result in substantial adverse impacts on them, especially in the context of exercising their rights to freedom of peaceful assembly, expression and to participate in public and political affairs.

114 See ECtHR, *Dzerkorashvili and Others v. Georgia*, no. 70572/16, 2 March 2023, paras. 77-87.
115 ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*, paras. 107-108. See also ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 36; and Joint Report of UN Special Rapporteurs (2016), A/HRC/31/66, para.48.
116 See the Council of Europe, Study on the Case on Freedom of Expression and Defamation, p. 24.
117 Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025, para. 47.
118 See ECtHR, *S., v. and A. v. Denmark* [GC], nos. 35553/12, 36678/12 and 36711/12, 22 October 2018, paras. 133-134.

61. As the October 2025 Amendments have removed the possibility to impose penalties other than administrative detention for the above-mentioned listed violations of Article 11 (2) of the Law on Assemblies and Demonstrations, when the alleged misconduct is committed by persons covered by Article 32 (3) of the CAO, a fine of 5,000 GEL (15,000 GEL for organizers) shall apply instead of administrative detention.

62. It is noted that the February 2025 Amendments to the CAO had already significantly increased administrative fines, in some cases by a factor of ten (for instance, new fines of up to GEL 5,000 (approximately € 1,700), as opposed to GEL 500 (€ 170) in the previous law) alongside the substantial increase in the length of administrative detention. Organizers are particularly affected, facing fines two to three times higher than those imposed on assembly participants. As underlined in the March 2025 Opinion, compared to the average monthly salary[119] of € 704, such heavy fines are likely to have a chilling effect on those seeking to exercise their right to freedom of peaceful assembly. Moreover, they appear comparatively much higher than those contemplated in the CAO for minor offences unrelated to assemblies.

63. **Therefore, the alternative sanctions of a fine of 5,000 GEL (15,000 GEL) imposed for administrative offences under Article 174[1] of the CAO committed by pregnant women, women with children under 12, minors or persons with severe or significant disabilities is clearly disproportionate and should be reconsidered entirely,** especially with respect to minor violations such as mere wearing of a mask or carrying laser and light-beam devices or participation in an illegal – but peaceful – assembly.[120]

4.3. Strict Criminal Liability and Imprisonment for Repeated Violations of the CAO

64. The Explanatory Statement to the Amendments to the Criminal Code specifically states that criminalization is appropriate "*in the event that participants in an assembly or demonstration partially or completely block a roadway in violation of the norms provided for by the legislation of Georgia*" when committed by a person (already) subject to administrative liability for the same conduct. The main argument is that the Amendments aim to deter such conduct by increasing the severity of punishment and making the repetition of an administrative offense criminal instead of administrative.

65. As mentioned above, given their importance, assemblies should be regarded as an equally legitimate use of public space as other, more routine uses of such space, such as pedestrian and vehicular movement or economic activity.[121] A certain level of disruption to ordinary life caused by assemblies, including temporary disruption of traffic, should be accommodated and tolerated, unless they impose unnecessary and disproportionate burdens on others or create significant and imminent danger to public safety by hindering

119 According to the National Statistics Office of Georgia, during quarter II of 2025, the average monthly salary amounted to GEL 2212 (approx. € 704).

120 ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025),* paras. 94-95. See also Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025, para. 56.

121 See e.g., Guidelines on the Right to Freedom of Peaceful Assembly, OSCE/ODIHR and Venice Commission, 3rd edition, 2019, para. 62; see also, General Comment no. 37, "the right of peaceful assembly", united Nations, Human Rights Committee , para. 7; ECtHR, *Patyi and Others v. Hungary*, no. 5529/05, 7 October 2008, where the ECtHR rejected the Hungarian government's arguments regarding potential disruption to traffic and public transport; *Körtvélyessy v. Hungary*, no. 7871/10, 5 April 2016, para. 29, where the ECtHR concluded "*the authorities, when issuing the prohibition on the demonstration and relying on traffic considerations alone, failed to strike a fair balance between the rights of those wishing to exercise their freedom of assembly and those others whose freedom of movement may have been frustrated temporarily, if at all.*"

access to emergency health care services.[122] Where demonstrators do not engage in acts of violence, public authorities must show a certain degree of tolerance towards peaceful gatherings if the right is not to be deprived of all substance.

66. The ECtHR has made clear that the manner of an assembly, in itself, may constitute a form of political expression and has held that peaceful assemblies can constitute expressions of opinion within the meaning of Article 10 of the ECHR.[123] The organizers of an assembly should be able to decide upon, without undue state interference, the modalities that will help them maximize the reach of the event and effectively communicate their message.[124] A number of ECtHR rulings also suggest the importance of considering the circumstances as well as the impact of protest actions on road passage/traffic.[125] For instance, the ECtHR has considered custodial sentences to be disproportionate when domestic courts failed to assess whether that blocking of the road had been intentional or was rather the result of contextual factors such as the size of the protest or police demands.[126] Similarly, in another case, the ECtHR concluded that no urgent social need was demonstrated for dispersing a road picket based on unverified claims of obstruction and endangerment to pedestrians and road users.[127] These rulings underline the importance of taking into account the circumstances and impact of particular protest actions where they obstruct traffic on the roads.

67. Moreover, as noted above, any penalties imposed due to the holding of an assembly must be necessary and proportionate.[128] Penalties for minor offences that do not threaten to cause or result in significant harm to public order or to the rights and freedoms of others should accordingly be low and the same as minor offences unrelated to assemblies.[129] In addition, penalties for acts of 'civil disobedience', i.e., non-violent actions that, while in violation of the law, are undertaken peacefully for the purpose of amplifying or otherwise assisting in the communication of a message, should similarly always be proportionate.[130] The ECtHR has also made clear that *"[w]here the sanctions imposed on the demonstrators are criminal in nature, they require particular justification*" and that a "*peaceful demonstration should not, in principle, be rendered subject to the threat of a criminal sanction […] and notably to deprivation of liberty*", underlining that it will examine with particular scrutiny all cases where sanctions imposed by national authorities for non-violent conduct involve a prison sentence.[131]

122 See, Guidelines on the Right to Freedom of Peaceful Assembly, OSCE/ODIHR and Venice Commission, 3rd edition, 2019, paras. 138 and 143. See also Urgent Opinion on Proposed Amendments to the Law of Georgia on Assemblies and Demonstrations and to the Administrative Offences Code of Georgia, OSCE/ODIHR, 2023, para.39, and Urgent Opinion on the Law on Assemblies of the Republic of Moldova, OSCE/ODIHR, 2023, para. 34. See also ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015, para. 155, which underlines that the mere disruption of traffic in itself does not justify an interference with the right to freedom of assembly.

123 The ECtHR has held that: "[t]he protection of personal opinions, secured by Article 10, is one of the objectives of freedom of peaceful assembly as enshrined in Article 11 [of the ECHR]", ECtHR, *Ezelin v. France*, no. 11800/85, 26 April 1991, para. 37.

124 See Guidelines on the Right to Freedom of Peaceful Assembly, OSCE/ODIHR and Venice Commission, 3rd edition, 2019, para. 58. See also ECtHR, *Women on Waves v. Portugal* (2009), no. 31276/05, 3 February 2009, para. 38.

125 See e.g., ECtHR, *Chumak v, Ukraine*, no. 44529/09, 6 March 2018, where no pressing social need was considered to exist for the dispersal of a picket on a road based on unsubstantiated conclusions that the protesters concerned had "obstructed the passage of pedestrians" and "endangered road users", with no estimate being made of the number of protesters or the size of the area they had allegedly blocked; more recently, custodial sentences were considered disproportionate in ECtHR, *Makarashvili and Others v. Georgia*, no. 23158/20, 1 September 2022, where no assessment was made by the courts of whether that blocking of a road had been intentional or a result of circumstances on the ground, such as the number of demonstrators and the related question of the "lawfulness" of the police demands, whereas one was not disproportionate in the case of demonstrators who had blocked the road during police attempts to reopen access to the Parliament building.

126 See, for example, ECtHR, *Makarashvili and Others v. Georgia*, no. 23158/20, 1 September 2022,

127 See, for example, ECtHR *Chumak v, Ukraine*, no. 44529/09, 6 March 2018.

128 See Guidelines on the Right to Freedom of Peaceful Assembly, OSCE/ODIHR-Venice Commission, 3rd edition, 2019, para. 222.

129 *Ibid.*

130 *Ibid.* para. 228. See also, UN Special Rapporteur on Environmental Defenders under the Aarhus Convention, Guidelines on the Right to Peaceful Environmental Protest and Civil Disobedience, para. 15.10.

131 See e.g., ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, 15 October 2015, para. 146; and ECtHR, *Peradze and Others v. Georgia*, no. 5631/16, 15 December 2022, para. 35.

68. An interference with an assembly leading to the arrest and detention of participants can only be justified on specific and stated substantive grounds, such as serious risks provided for by law and only after the participants have been given sufficient opportunity to manifest their views.[132] An assembly that remains peaceful while nevertheless causing a high level of disruption, such as the extended blocking of traffic or occupying-style movements, may be dispersed, as a rule, only if the disruption is "serious and sustained".[133]

69. The October 2025 Amendments have introduced the possibility of imposing a term of up to one year of imprisonment where someone has a past record of committing a violation of Article 174[1](9) or (10) of the CAO, and even up to two years in case of repeated violation(s) (Article 347 (1) and (2) of the Criminal Code) without any requirement of intent to cause property or personal damages, in sum equating strict liability for simply taking part in a peaceful assembly, even though obstructing road traffic.

70. The comments made above with respect to the imposition of administrative detention are *a fortiori* applicable with respect to the imposition of imprisonment for repeated commission of the same offences.

71. As a result of the October 2025 Amendments to the Criminal Code, imprisonment of up to one year becomes the default sanction for the repeated violations of Article 11(2)(a), (a2), (c), (e)-(g) of the Law on Assemblies and Demonstrations – which do not involve violent conduct, without any assessment as to the necessity of the detention on a case-by-case basis. As such, this may qualify as an arbitrary deprivation of liberty in violation of Article 5 (1) (c) of the ECHR.[134] Detention should be used only if there is a pressing need to prevent the commission of serious criminal offences and where an arrest is absolutely necessary (e.g., due to violent behaviour).[135] Moreover, default criminalization transforms a regime of facilitation into one of prior restraint and deterrence.

72. Furthermore, the October 2025 Amendments to Article 347 of the Criminal Code establish the same minimum-maximum-penalty for two categories of administrative offences that are subject to different sets of administrative penalties, i.e., 15 days of administrative detention (or 20 days for organizers) for those falling under Article 174[1] (10) of the CAO or 60 days of administrative detention for those covered by Article 174[1] (9) of the CAO, so allegedly considered by the legislator as being of graduated gravity. This therefore violates the requirement of proportional penalties.

73. Since the amendments to Article 347 of the Criminal Code envisage the imposition of imprisonment, they must also comply with Article 9 of the ICCPR and Article 5 of the ECHR on the protection of liberty and security of persons,[136] which require that arrest and detention must not be arbitrary or unlawful. The UN Human Rights Committee has stated that *"[a]rrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including [in cases involving] freedom of assembly*."[137] The ECtHR has held that when the facts point to a significant probability that individual arrests and detentions "*were at least partly the result of acts and decisions*

132 See ECtHR, *Navalnyy v. Russia* [GC], nos. 29580/12 and 4 others, 15 November 2018. UN Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (Article 21), para. 39.
133 See, General comment No. 37, "the right of peaceful assembly", United Nations, Human Rights Committee, 17 September 2020, para. 85.
134 See e.g., ECtHR, *Dzerkorashvili and Others v. Georgia*, no. 70572/16, 2 March 2023, paras. 104-105.
135 See ODIHR-Venice Commission *Guidelines on Freedom of Peaceful Assembly*, para. 220 and references therein.
136 See further, UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014; and ECtHR, *Brega and Others v. Moldova*, no. 61485, 24 January 2012, paras. 37-44.
137 UN HRC, *General Comment No. 35 (2014) on liberty and security of person*, CCPR/C/GC/35, 16 December 2014, para. 17.

which formed part of a larger strategy in relation to protests which had started peacefully and which, albeit characterized by pockets of violence, involved a vast majority of peaceful protesters", this fails to meet the minimum standard set by Article 5 (1) (c) of the ECHR for the reasonableness of a suspicion required to justify the arrest or detention, concluding to the existence of an element of arbitrariness.[138]Another fundamental element that should be considered to assess whether there are sufficient safeguards against arbitrariness, includes the existence of an effective remedy by which the "lawfulness" and "length" of one's detention may be contested.

74. In addition, the fact that criminal liability, with the imposition of imprisonment, is introduced where someone has a past record of committing specified (non-violent) act qualified by the national legislation as administrative offences (up to one year), and of up to two years for doing so repeatedly (meaning more than once, and not within any stipulated timeframe), without evidence of intent to cause harm to society or serious property or personal damages or actually causing such harm is problematic. These provisions penalize conduct that is protected by international human rights law, including the wearing of a mask, or for the peaceful participation in assemblies deemed unlawful or obstructing roadways. This may also be problematic from the perspective of fair trial standards guaranteed by Article 14 of the ICCPR, Article 6 of the ECHR, Article 40 of the UN CRC, and Articles 47-49 of the EU Charter of Fundamental Rights.[139] Indeed, this implies a regime of strict criminal liability, whereby the mere repetition of the listed administrative offences, irrespective of any mental element such as the intent to cause serious property or personal damages or harm, recklessness or negligence, leads to imprisonment. This implies conviction based only on the *actus reus* of the offence, without proof of the defendant's culpability or *mens rea*, which may be based on the premise that any intentional engagement in the repeated alleged misconduct creates an irrebuttable presumption of substantive fault as to harm to society or persons. Should the provisions operate in such a manner that the imposition of two administrative sanctions automatically entails criminal liability and imprisonment of up to one year or two years in case of repeated administrative offence – without any judicial assessment of the underlying facts, this would constitute a violation of the presumption of innocence. [140]

75. More specifically, with respect to the repeated peaceful participation in an assembly which has been terminated by the MIA as per Article 13 (1), it must be underlined that an assembly is still considered "peaceful" even if it is deemed "unlawful" under domestic law. The definition of "peaceful" also encompasses actions that may temporarily hinder, impede, or obstruct third parties, including temporary road blockages or traffic disruption.[141] As a rule, authorities should prioritize the reorientation of traffic instead of

138 ECtHR, *Shmorgunov and Others v. Ukraine*, nos. 15367/14 and 13 others, 21 January 2021, paras. 464-477.

139 Compliance with the EU Charter of Fundamental Rights is also of relevance in anticipation of possible future resumption of the accession process.

140 Article 14 (2) of the ICCPR and Article 6 (2) of the ECHR provide that everyone charged with a criminal offence shall be presumed innocent until proven guilty according to law. The essential nature of this presumption has been clearly outlined by the UN Human Rights Committee in its General Comment No. 32 on Article 14 of the ICCPR, stating that "*[t]he presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle*." – see UN Human Rights Committee, *General comment no. 32, Article 14 of the ICCPR, Right to equality before courts and tribunals and to fair trial*, CCPR/C/GC/32, para. 30. See also ECtHR, *Barberà, Messegué and Jabardo v. Spain*, no. 10590/83, 6 December 1988, para. 77, which states that: "*Paragraph 2 [Article. 6-2 of the ECHR] embodies the principle of the presumption of innocence. It requires, inter alia, that when carrying out their duties, the members of a court should not start with the preconceived idea that the accused has committed the offence charged; the burden of proof is on the prosecution, and any doubt should benefit the accused. It also follows that it is for the prosecution to inform the accused of the case that will be made against him, so that he may prepare and present his defence accordingly, and to adduce evidence sufficient to convict him*".

141 The ECtHR has often reiterated that a demonstration in a public place "may cause a certain level of disruption to ordinary life"; see for example *Nurettin Aldemir and Others v. Turkey*, nos. 32124/02, 32126/02, 32129/02, 32132/02, 32133/02, 32137/02 and 32138/02, 18

the redirection of an assembly and only if the disruption caused by an assembly is serious and sustained and cannot be mitigated otherwise, should its redirection to an alternative route be considered.

76. With respect to the concerns raised in the March 2025 Opinion regarding the grounds on which the MIA may request the immediate halting of an assembly (Article 13 (1) of the Law), prohibiting participation in such terminated assemblies – based on the assumption that the assembly was validly terminated by the MIA, without judicial control or confirmation by a court –would appear unjustified and disproportionate. It is worth recalling that participation in a peaceful assembly, even if unauthorized, should never be treated as a serious offence that leads to severe penalties.[142] Participants in a peaceful assembly should not be subject to criminal sanctions[143] or deprivation of liberty merely for participating in an assembly.[144] The March 2025 Opinion concluded that the newly introduced Article 11 (2) (g) prohibiting assembly participants from participating in an assembly or demonstration that has been terminated at the MIA's request as per Article 13 (1) of the Law should be reconsidered entirely, as should imprisonment on the basis of such a ground in case of subsequent violations.

77. Another consideration should also be the risk of the potential retrospective application of the new amendments to Article 347 of the Criminal Code should a past administrative punishment under Article 174[1] of the CAO for acts committed before the Amendments entered into force could potentially become part of the *corpus delicti* for Article 347 (1) and (2) of the Criminal Code. In case of prior administrative penalty concerning acts carried out before the entry into force of the October 2025 Amendments taken into consideration, this would also violate the principle of *"nullum crimen, nulla poena sine lege"* (i.e., no crime without law, no punishment without law) guaranteed under Article 15 of the ICCPR and Article 7 of the ECHR, and would amount to the retroactive application of criminal law, in breach of Article 15 of the ICCPR and Article 7 of the ECHR.[145]

78. Finally, the stigmatizing effect of criminal liability will further inhibit the participation in assemblies, further amplifying the chilling effect on the exercise of the right to freedom of peaceful assembly already noted above with respect to administrative detention.

79. In light of the foregoing, **the new provisions of the Criminal Code providing for up to one or two years of imprisonment in case of repeated violations of Article 174[1] (9) and (10) of the CAO should be repealed.**

80. The increase of the penalty previously envisaged under Article 347 of the Criminal Code (i.e., a fine or house arrest for a term of six months to two years, or corrective labour for a term of up to one year) to four years of imprisonment without any alternative less restrictive penalty (Article 347(4) of the Criminal Code) that may be imposed on organizers for violating the rules for holding an assembly or demonstration when this results in "*serious consequences*" also raises serious concerns. First, the wording "serious consequences" is unduly broad and vague and may lead to potential arbitrary application.

December 2007, para. 43. See also the Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his mission to the Republic of Korea, A/HRC/32/36/Add.2, 15 June 2016, para. 28, stating that: "*The reasons that police rely on to ban or find assemblies unlawful, such as obstruction of traffic, disturbance of daily lives of citizens, high noise levels, and later notification of a simultaneous assembly, do not meet the criteria set out in article 21 of the ICCPR to justify limitations on assemblies. […]*"

142 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 176. See also ECtHR, *Gün and Others v. Turkey*, no. 8029/07, 18 June 2013 (only in French), para. 83; and *Akgöl and Göl v. Turkey*, nos. 28495/06 and 28516/06, 17 May 2011, para. 43.

143 *Ibid. Akgöl and Göl v. Turkey*, para. 43.

144 See ECtHR, *Gün and Others v. Turkey*, no. 8029/07, 18 June 2013, para. 83.

145 See e.g., ECtHR, *Kotlyar v. Russia*, nos. 38825/16 and 2 others, 12 July 2022, paras. 29-34.

Second, by removing the possibility to impose alternative, less restrictive penalties (such as fines or community service), this will *de facto* result in the imposition of harsher sanctions and lack of proportionality, further compounding the chilling effect mentioned above. Third, the said criminal provision also implies an – increased – responsibility of organizers for the behaviour of others, which is in contradiction with the principles of criminal law (individual responsibility). As emphasized in the Guidelines, organizers should not be held liable where they are not individually responsible, e.g., where property damage or disorder, or violent acts are caused by assembly participants or onlookers acting independently and liability will only exist where organizers or stewards have personally and intentionally incited, caused or participated in actual damage or disorder.[146] **Article 347 (4) of the Criminal Code should therefore be reconsidered entirely.**

4.4. Criminal Sanctions Imposed on Minors

81. The October 2025 Amendments to the Criminal Code envisage specific criminal sanctions for minors who may repeatedly violate Article 174[1] (9) and (10) of the CAO (violations of certain provisions of the Law on Assemblies and Demonstrations) or 173 (2) of the CAO (Disobedience to Lawful Orders and Verbal and other offensive actions): a fine or corrective labour for up to one year or imprisonment of up to one year may be imposed in such cases.

82. The comments above regarding the arbitrariness and illegality, under international law, of imprisonment as a sanction for the peaceful exercise of the right to freedom of peaceful assembly and that detention / imprisonment as a sanction should never be used for the peaceful exercise of rights are equally relevant in relation to minors.

83. In addition, in cases where minors are alleged to have committed acts defined as criminal offences, their detention or deprivation of liberty should be avoided as far as possible. As underlined by the UN Committee on the Rights of the Child (CRC Committee), the leading principles for the use of deprivation of liberty for the few situations where it may be justified are: (a) the arrest, detention or imprisonment of a child is to be used only in conformity with the law, only as a measure of last resort and for the shortest appropriate period of time; and (b) no child is to be deprived of his or her liberty unlawfully or arbitrarily.[147] In its latest Concluding Observations on Georgia, the CRC Committee specifically called upon the State to "*continue to ensure that detention is used as a measure of last resort and for the shortest appropriate period of time and is reviewed on a regular basis with a view to its withdrawal*" and *"[f]or the few situations where deprivation of liberty is justified as a measure of last resort, ensure that the children are not detained together with adults and that detention conditions are compliant with international standards, including with regard to access to education and health services*".[148]

84. **Deprivation of liberty of a minor for acts which, as stated above, do not reach the threshold of seriousness calling for the criminalization of the alleged misconduct, is contrary to international standards on the rights of the child whereby deprivation**

146 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 224 and references cited therein.

147 See UN CRC, General Comment No. 24 on Children's Rights in the Child Justice System, CRC/C/GC/24, 2019, para. 85. See also, UNICEF, *Report on Policing Assemblies Involving Children*, which call upon States to ensure that "the arrest and detention of children should always be a measure of last resort, for the shortest possible time and adhere to legal safeguards" and "prioritize diverting children away from judicial processes - and in particular from detention" p.42

148 See UN CRC, *Concluding Observations on the combined fifth and sixth reports of Georgia*, CRC/C/GEO/CO/5-6, 30 May 2024, para. 42 (f) and (g).

of liberty must be avoided as much as possible[149] and criminal penalty of up to one year of imprisonment for minors should be repealed. In addition, such harsh sanctions will likely inhibit the participation of minors in peaceful assemblies for fear of criminal prosecution or disproportionate sanctions, further amplifying the chilling effect on the exercise of the right of the child to freedom of peaceful assembly guaranteed by Article 15 of the UN CRC.

4.5. Sanctions for Disobedience to Lawful Orders and Verbal Insults and "Other Offensive Actions" Against Public Officials

85. The February 2025 Amendments introduced a new offence of "verbal abuse, swearing, persistent insults and/or other offensive actions" against certain law enforcement officials punishable by a fine of GEL 2,000 to GEL 5,000 or up to 60 days of administration detention (amended Article 173 (2)) or, in case of repetition, a fine of GEL 3,500 to GEL 6,000 or administrative detention for a period of 7 to 60 days (amended Article 173 (3)). The administrative penalties envisaged in Article 173(3) also apply to repeated disobedience to a lawful order (Article 173(1)).

86. The October 2025 Amendments introduce a new Article 353^3 in the Criminal Code, establishing criminal liability for repeated violation of Article 173(3) of the CAO, which itself sanctions the repeat violation of Article 173 (1) CAO (disobedience to lawful orders) or of Article 173 (2) CAO (verbal insult, abuse, offensively treat, and/or other offensive actions against certain public officials during or in connection with the performance of their duties). Such behaviour would be punishable by up to one year of imprisonment (Article 353^3 (1) of the Criminal Code), and up to two years for subsequent violations (Article 353^3 (2) of the Criminal Code). Previously, repeat violations of Article 173(3) of the CAO would have resulted in fines ranging from 3,500 – 6,000 GEL or administrative detention for up to 7 to 60 days. If committed by a minor, such violation is subject to a fine or corrective labour for up to one year or imprisonment of up to one year (Article 353^3 (3) of the Criminal Code).

87. First, as underlined in the March 2025 Urgent Opinion, the requirement of legality of restrictions to freedom of expression (see Sub-Section 1.2 above) means that the law concerned must be precise, certain and foreseeable, and must be formulated in terms that provide a reasonable indication as to how these provisions will be interpreted and applied.[150] While acknowledging that it may not be possible to attain absolute precision (see para. 22 *supra*), any offences – even administrative ones – and the relevant penalties must be clearly and precisely defined by law, meaning that an individual, either by himself/herself or with the assistance of a legal counsel, should know from the wording of the relevant provision which acts and omissions will make him/her criminally liable and what penalty s/he will face as a consequence.[151]

88. Any vaguely or broadly framed restrictive provisions open the possibility for misinterpretation and arbitrary application by public authorities, subsequently having a chilling effect on the exercise of fundamental rights. A chilling effect may arise, in the

149 See UN Committee on the Rights of the Child (CRC), General Comment No. 24 on Children's Rights in the Child Justice System, CRC/C/GC/24, 2019; CRC, General Comment No. 20 on the Implementation of the Rights of the Child during Adolescence, CRC/C/GC/20, 2016, United Nations Office of the High Commissioner for Human Rights (OHCHR), United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), A/RES/40/33, 29 November 1985.

150 See e.g., Venice Commission, *Rule of Law Checklist*, CDL-AD(2016)007, para. 58. In addition, see ECtHR, *The Sunday Times v. the United Kingdom* (No. 1), no. 6538/74, where the Court ruled that "*the law must be formulated with sufficient precision to enable the citizen to regulate his conduct*," by being able to foresee what is reasonable and what type of consequences an action may cause."

151 See e.g., ECtHR, *Rohlena v. the Czech Republic* [GC], no. 59552, 27 January 2015, paras. 78-79. See also UN HRC, *General Comment No. 29* on States of Emergency (Article 4 of the ICCPR), CCPR/C/21/Rev.1/Add. 11 (2001), para. 7.

words of the ECtHR, "*where a person engages in 'self-censorship', due to a fear of disproportionate sanctions or a fear of prosecution under overbroad laws. This chilling effect works to the detriment of society as a whole.*"[152]

89. The mere reference to "verbal insult", offensive or other offending actions without providing any description or definition of the meaning, nor indicating the constitutive elements of the criminal offence appears excessively broad and subjective and could be applied and interpreted in an arbitrary manner. With this wording, any criticism, even satirical could potentially be subjectively perceived as an insult or as being offensive.

90. The ECtHR has acknowledged that derogatory and insulting expressions can cause "*emotional disturbance*" and affect a person's "*psychological well-being, dignity and moral integrity*" and, therefore, can interfere with the right to respect for private life protected under Article 8 of the ECHR.[153] However, for insults to engage such a right, the Court expects the expression at stake to meet a certain threshold of severity.[154] In addition, it must be emphasized that someone who is active in the public domain must have a higher tolerance of criticism and the limits of acceptable criticism are wider with regard to politicians and state officials acting in their public capacity.[155] In this respect, the ECtHR has specifically recognized that "*being a part of the security forces of the State, the police should display a particularly high degree of tolerance to offensive speech, unless such inflammatory speech is likely to provoke imminent unlawful actions in respect of their personnel and to expose them to a real risk of physical violence*", noting that *"[i]t has only been in a very sensitive context of tension, armed conflict and the fight against terrorism or deadly prison riots that the Court has found that the relevant statements were likely to encourage violence capable of putting members of security forces at risk and thus accepted that the interference with such statements was justified*".[156] As also noted by the UN Human Rights Committee, the mere fact that the expression is considered to be insulting to a public figure is not sufficient to justify restriction or penalties.[157]

91. Finally, in the case of insults, from the case-law of the ECtHR, it would appear that criminal sanctions *per se* would not be considered proportionate to the aim pursued due to their chilling effect on the exercise of freedom of expression as individuals are likely to self-censor themselves by fear of criminal prosecution or disproportionate sanctions,[158] especially when the underlying legislation is vaguely and broadly worded as is the case here.

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152 See the Council of Europe, Study on the Case on Freedom of Expression and Defamation, p. 24.
153 See ECtHR, *F.O. v. Croatia*, no. 29555/13, 22 April 2021, para. 60.
154 See ECtHR, *Denisov v. Ukraine*, no. 76639/11, 25 September 2018, para. 112, also quoting consolidated case-law such as *A. v. Norway*, paras. 63-64; *Polanco Torres and Movilla Polanco v. Spain*, no. 34147/06, 21 September 2010, paras. 40 and 44; *Delfi AS v. Estonia*, no. 64569/09, 2015, para. 136; *Bédat v. Switzerland*, no. 56925/08, para. 72. As a matter of example, Section 1 of the United Kingdom's Defamation Act 2013 reads as follows: 'A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.'
155 See International Mandate-Holders on Freedom of Expression, *2023 Joint Declaration on Media Freedom and Democracy*, which specifically provides that: "*Politicians and public officials should demonstrate high levels of tolerance towards critical journalistic reporting bearing in mind that critical scrutiny of those in positions of power is a legitimate function of the media in democracy.*" See also e.g., ECtHR, *Karman v. Russia*, no. 29372/02, 14 December 2006, para. 36; and ECtHR, *Jerusalem v. Austria*, no. 26958/95, 27 February 2001.
156 See ECtHR, *Savva Terentyev v. Russia*, no. 10692/09, 28 August 2018, para. 77.
157 See the UN Human Rights Committee *General comment No. 34* to Article 19 of the ICCPR, CCPR/C/GC/34, para. 38.
158 See the Council of Europe, *Study* on the Case on Freedom of Expression and Defamation, p. 24. See e.g., *Eon v. France*, no. 26118/10, 14 March 2013, paras. 61-62, where the Court considered that even a suspended fine of merely 30 Euros imposed on a French citizen for insulting the President of France (a sum which the remitting court contended it had been imposed "as a matter of principle") was considered "likely to have a chilling effect" simply due to its criminal nature, and was held "disproportionate to the aim pursued and hence unnecessary in a democratic society". See also the UN Human Rights Committee *General comment No. 34* to Article 19 of the ICCPR, CCPR/C/GC/34, para. 47.

92. In light of the foregoing, the criminal offences for the mere repetition of the administrative offence of "verbal insult" and other vaguely and broadly framed offensive actions against certain public officials should be repealed due to the disproportionate character of criminal sanctions and their chilling effect on freedoms of peaceful assembly and of expression, as well as the inherent difficulty of providing a definition compliant with the principles of legal certainty, foreseeability and specificity of criminal law, and given the risk of arbitrary application. ODIHR hereby also reiterates its findings from the March 2025 Urgent Opinion that in its current form, Article 173 (2) of the Code of Administrative Offences is not compliant with the requirement of legality and foreseeability of restrictions to the right to freedom of expression.

5. New Article 244 (4) of the Code of Administrative Offences on the Procedure and Conditions for Detecting and Responding to a Photographed or Videotaped Administrative Offence and Identification of Offenders

93. The October 2025 Amendments introduce a new sub-paragraph 4 under Article 244 of the Code of Administrative Offences which provides that the procedure and conditions for detecting and responding to a photographed or videotaped administrative offence and for identifying offenders (including by using a special programme) shall be determined by order of the Minister of Internal Affairs of Georgia.

94. While the use of cameras to monitor public space may allow law-enforcement agencies to identify and respond to imminent threats to public safety and actual or imminent occurrences of criminal activity and to facilitate peaceful assemblies – the routine, sustained and focused photographing, filming or recording of individual participants in a peaceful assembly is unduly intrusive and is likely to infringe upon personal data protection standards and the right of respect to private life of participants and organizers guaranteed by Article 17 of the ICCPR and Article 8 of the ECHR.[159] Moreover, the routine use of digital image recording devices by law enforcement officers during a public assembly may have a 'chilling effect' on freedom of assembly and curtail the exercise of this right.[160] The deployment of digital recording devices should therefore not be carried out routinely.

95. As underlined in the Guidelines on Freedom of Peaceful Assembly, **digital images of organizers and participants in an assembly should not be recorded**, except where specifically authorized by law and necessary in cases where there is probable cause to believe that the planners, organizers or participants will engage in *serious* unlawful activity.[161] In general, intrusive overt or covert surveillance methods should only be applied where there is clear evidence that imminent unlawful activities, such as violence or use of fire arms are planned to take place during an assembly.[162] The use of image recording for the purpose of identification (including facial recognition software) should be confined to those circumstances where criminal offences are actually taking place, or where there is a reasonable suspicion of imminent criminal behaviour.[163] Hence, **new**

159 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.
160 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.
161 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.
162 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.
163 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.

Article 244 (4) of the CAO which envisages such means in the context of administrative offences of a lesser gravity should be reconsidered entirely.

96. The taking and retention of digital imagery for purposes of identifying persons engaged in lawful activities, or the retention of data extracted from such images (such as details of an individual's presence at an assembly) *in a permanent or systematic* record violates the right to privacy and personal data protection standards that call for data minimisation and storage limitation. Laws, and policies of law enforcement agencies should codify operating procedures relating to digital recording at public assemblies, including a description of the (lawful and legitimate) purposes for and the circumstances in which such activities may take place, and procedures and policies for the retention and processing of resulting data and the information obtained in this manner should be destroyed after a reasonable period set out in law.[164]

97. Finally, given the significant risks posed to the enjoyment of human rights, including the right to freedom of peaceful assembly and of association, by the use by authorities of digital surveillance, such as spyware, facial recognition and other biometric technologies, and digital profiling tools, states should refrain from the use of facial recognition technologies and other biometric systems, to identify those peacefully participating in an assembly.[165] They should also put in place a robust legal human rights-compliant regulatory framework that effectively protects the right to privacy, including with regards to facial images and the data derived from them.[166] In particular, there should be mechanisms whereby individuals can ascertain whether information has been stored, and, if so, what information – and whereby they are provided with access to an effective process for making complaints or seeking redress relating to the collection, retention and use of their personal information. [167]

6. Use of the October 2025 Amendments for Purposes Other than Those Permitted by International Human Rights Standards

98. The introduction of the October 2025 Amendments should be analysed within the broader context in Georgia, as pointed out in para. 31 *supra*. They follow a series of peaceful demonstrations that have led to the mass arrests and detention of peaceful protesters, human rights defenders and opposition figures, as shown in various reports, opinions and statements made by international and regional human rights organizations and other bodies, underlining the crackdown on civil society in the country.[168]

164 See ODIHR-Venice Commission, *Guidelines on Freedom of Peaceful Assembly*, para. 169; and ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.

165 See International Mandate-Holders on Freedom of Peaceful Assembly and Freedom of Association, *2023 Joint Declaration on Freedom of Peaceful Assembly and of Association and Misuse of Digital Technologies*, 15 September 2023.

166 See International Mandate-Holders on Freedom of Peaceful Assembly and Freedom of Association, *2023 Joint Declaration on Freedom of Peaceful Assembly and of Association and Misuse of Digital Technologies*, 15 September 2023.

167 See ODIHR, Report Monitoring of Freedom of Peaceful Assembly in Selected OSCE Participating States (May 2017–June 2018), para. 293.

168 See e.g., OSCE/ODIHR Statements on the Situation in Georgia of 7 October 2025 and of 20 December 2024; Statement of the UN Special Rapporteur on the situation of human rights defenders of 5 September 2025, as endorsed by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; the Statements of the EU High Representative/Vice President Kallas and Commissioner for Enlargement Kos on Georgia of 5 October 2025 and of 7 February 2025; European Parliament's Statement of 9 July 2025. See also European Parliament resolution on Georgia's worsening democratic crisis following the recent parliamentary elections and alleged electoral fraud (2024/2933(RSP)); CoE Commissioner for Human Rights Statement of 1 July 2025 and of 4 December 2024; Joint Statement of 28 January 2025 of UN Special Rapporteurs on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on extrajudicial summary or arbitrary executions; on the Rights to Freedom of Peaceful Assembly and of Association; on the situation of human rights defenders; on the right to freedom of opinion and expression, on the independence of judges and lawyers; see also the various statements of the Public Defender of Georgia and national stakeholders and non-governmental organizations. See

99. The cumulative effect of the amendments to the legal framework governing the exercise of fundamental freedoms in Georgia, including those reviewed by ODIHR and the Venice Commission in their legal reviews published since 2023, when considered alongside enforcement patterns, raises serious concerns that the October 2025 Amendments may be used for purposes beyond those permitted under the ECHR, notably to silence or penalize peaceful protesters and civil society activists for legitimate social or political engagement and the lawful exercise of their rights to freedom of peaceful assembly, association, and expression, in violation of Article 18 of the ECHR.[169]

7. Process of Preparing and Adopting the October 2025 Amendments

100. As noted above, the Amendments were submitted to the Parliament on 8 October 2025 and were adopted pursuant to an accelerated procedure, with the three readings leading to the adoption of the Amendments on 16 October 2025 and promulgation by the President of the Republic on the same day. They entered into force upon publication on 17 October 2025.

101. As noted in Section 3 *supra*, the Explanatory Statements to the October 2025 Amendments are not based on any in-depth and comprehensive impact assessment, and the reasons adduced by national authorities to justify them are neither relevant nor sufficient, failing to provide evidence-based demonstration of why the existing legal framework is insufficient and/or ineffective.[170]

102. Moreover, as already emphasized in the previous Urgent Opinion of March 2025, numerous, frequent and piecemeal amendments to legislation may raise doubts as to whether there is any thorough and coherent policy underpinning the reform process, in addition to creating legal uncertainty. As underlined in the *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (2024), overly frequent amendments to laws, often due to lack of planning and prior research into policy topics, undermine the stability of the legislative framework and legal certainty in general, and should be avoided.[171]

7.1. Use of Accelerated Procedure

103. Article 117 of the Rules of Procedure of the Parliament of Georgia provides the possibility of resorting to an accelerated procedure.[172] Pursuant to Article 117 (3) of the Rules of Procedure, a decision on the use of the accelerated procedure shall be made by the Parliamentary Bureau, on the basis of a written substantiated request of the initiator of the draft law. The provision however does not provide for precisely and narrowly defined circumstances when the use of such a procedure may be invoked.

104. In the Explanatory Statement to the Draft Amendments to the Criminal Code, the initiators simply state that *"[g]iven the importance of the issue addressed by the draft*

also ODIHR, *Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offences and the Criminal Code of Georgia (as adopted on 6 February 2025)*; and Venice Commission, *Urgent Opinion on amendments to the Code of administrative offences and the Law on assemblies and demonstrations of Georgia*, CDL-PI(2025)004-e, 3 March 2025. With respect to the amendments unduly impacting the exercise of the rights to freedom of association and freedom of expression, including the Law on Foreign Agents Registration, amendments to the Law on Grants and the Law on Transparency of Foreign Influence (adopted on 28 May 2024), see also ODIHR, *Urgent Opinion on the Law "On Transparency of Foreign Influence" of Georgia*, 30 May 2024; and Venice Commission, *Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence"*, CDL-AD(2025)034-e, 15 October 2025; and *Urgent Opinion on the Law of Georgia on Transparency of Foreign Influence*, CDL-AD(2024)020, 24 June 2024.

169 See e.g., ECtHR, *Rashad Hasanov and Others v. Azerbaijan*, nos. 48653/13 and 3 others, 7 June 2018, paras. 121-127.

170 ODIHR, Guidelines on Democratic Lawmaking for Better Laws (16 January 2024), Principle 5 on Evidence-based Lawmaking.

171 ODIHR, Guidelines on Democratic Lawmaking for Better Laws (16 January 2024), Principle 9.

172 See Rules of Procedure of the Parliament of Georgia | სსიპ "საქართველოს საკანონმდებლო მაცნე" (matsne.gov.ge).

law, it is necessary to respond effectively and promptly to the crime presented, therefore, the initiators request expedited consideration of the draft law". The Explanatory Statement to the Draft Amendments to the CAO refers to the need to effective and timely response to the issues linked to the introduction of the amendments to the Criminal Code, without further elaboration.

105. As underlined in *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (2024), accelerated legislative procedure "*should be used rarely and only in exceptional cases of genuine urgency to pass a specific law, as the process entails a lack of legislative planning and less or no time for in-depth consultations on draft laws, nor for adequate parliamentary scrutiny*."[173] The Guidelines further underline that *"[t]he legal framework should define precisely and narrowly the circumstances in which fast-track procedures may be applied and should require proper justification*" and *"[a]ccelerated lawmaking procedures should only be possible if they are based on a formal request submitted in accordance with the relevant legislation*".[174] They should not be applied to introduce important and/or wide-ranging reforms, such as legislation significantly impacting the exercise of human rights and fundamental freedoms,[175] as is the case here. In any case, laws passed by accelerated procedures should be subjected to special oversight and should ideally contain a review clause.[176] It would be recommended to more precisely define in the Rules of Procedure the strictly limited circumstances when fast-track procedures may be used, or should not be used, while ensuring that a special oversight mechanism is in place.

106. **The accelerated legislative procedure should not be used to amend legislation impacting fundamental rights, and, should it be nevertheless used, special oversight should be in place, including a review clause.**

7.2. Lack of Public Consultations Prior to the Introduction and Adoption of the 2025 October Amendments

107. The October 2025 Amendments were adopted without prior public consultations, as also reflected in the Explanatory Statements.

108. OSCE participating States have committed to ensure that legislation will be *"adopted at the end of a public procedure, and [that] regulations will be published, that being the condition for their applicability"* (1990 Copenhagen Document, para. 5.8).[177] Moreover, key commitments specify that *"[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives"* (1991 Moscow Document, para. 18.1).[178] The *ODIHR Guidelines on Democratic Lawmaking for Better Laws* underline the importance of a participatory and inclusive lawmaking process.[179] The Venice Commission's Rule of Law Checklist also emphasizes that the public should have a meaningful opportunity to provide input.[180]

109. The ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly specifically underline the importance of ensuring a consultative approach to the drafting of legislation and related regulations pertaining to the right to freedom of peaceful

173 See ODIHR, Guidelines on Democratic Lawmaking for Better Laws (16 January 2024), Principle 11.
174 *Ibid.* Principle 11.
175 *Ibid.* Principle 11.
176 *Ibid.* Principle 11.
177 See 1990 OSCE Copenhagen Document, para. 5.8.
178 See 1991 OSCE Moscow Document, para. 18.1,
179 See *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (January 2024), in particular Principle 7. See also *Venice Commission, Rule of Law Checklist*, CDL-AD(2016)007, Part II.A.5.
180 See Venice Commission, Rule of Law Checklist, CDL-AD(2016)007, Part II.A.5.

assembly, to ensure that the needs and perspectives of all persons or groups are taken into consideration, including those responsible for or affected by its implementation, as well as other interested individuals and groups (including local human rights organizations).[181] Such consultations should be an integral part of the legislative drafting process, and need to be open, transparent, meaningful and inclusive. In particular, sufficient and appropriate outreach activities should ensure the involvement of interested parties from various groups (particularly those facing particular challenges in the exercise of their rights to freedom of peaceful assembly) representing different and opposing views (including those that may be critical of the proposals made). The authorities responsible for organizing consultations should respond to proposals made by stakeholders, in particular where these proposals are not incorporated into the relevant draft law or policy (in this case, the authorities should explain why).[182]

110. **Such important amendments should have been subjected to inclusive, extensive and effective consultations, including with civil society, and ensuring the involvement of interested parties from various, diverse groups representing different and opposing views, offering equal opportunities for women and men, for persons with disabilities, and persons from under-represented or marginalized groups to participate. According to the principles stated above, such consultations should have taken place in a timely manner, at all stages of the law-making process, especially before the Parliament. More generally, as an important element of good law-making, a consistent monitoring and evaluation system of the implementation of the Amendments and their impact should also be put in place that would efficiently evaluate the operation and effectiveness of the revised legislation**.[183]

[END OF TEXT]

181 See ODIHR-Venice Commission Guidelines on Freedom of Peaceful Assembly, para. 99.
182 *Ibid.* para.99
183 See e.g., OECD, Evaluating Laws and Regulations, the Case of the Chilean Chamber of Deputies, (2010).

ANNEX 1 – Summary Table of the October 2025 Amendments and related provisions of the Law on Assemblies and Demonstrations

	Sanctions for violations of the Law on Assemblies and Demonstrations introduced by the October		
Provisions of the Law on Assemblies and Demonstrations	**February 2025 CAO Amendments**	**October 2025 CAO Amendments**	**October 2025 CC Amendments**
Article 11 (2) (a): "carrying firearms, explosive, flammable, radioactive substances, cold weapons or pyrotechnic products;"	**Fine** of 5,000 GEL and up to 10,000 in case of repetition (15,000 GEL for organizers, 20,000 GEL in case of repetition) **or administrative detention** for a term of up to **15 days or up to 20 days in case of repetition** (20 days for organizers, 60 days in case of repetition), with confiscation of the object of the offense. *Article 174[1] (5) and (6) of CAO*	**Administrative detention for a term of up to 60 days**, except for cases covered by Article 32 (3) CAO[184] *(fine of 5,000 GEL (15,000 GEL for organizers))* *Article 174[1] (9) of CAO - as amended by October 2025 Amendments*	**Imprisonment of up to one year** where someone has a past record of committing a violation of Article 174[1] (9) and (10) of CAO and **up to two years** for doing so repeatedly. *New Article 347 (1) and (2) of the CC* ***For a minor:*** *fine, or corrective labour up to one year, or imprisonment up to one year.* *New Article 347 (3) of the CC*
Article 11 (2) (a[2]): "covering one' face with a mask or any other means"	**Fine** of 2,000 GEL and up to 5,000 in case of repetition **or administrative detention** for a term of up to **7 days (20 days in case of repetition)**, with confiscation of the object of the offense. *Article 174[1] (7) and (8) of CAO*	**Administrative detention** for a term of up to **15 days (20 days for organizers)** with confiscation of the object of the offense, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *New Article 174[1] (10) of CAO - as introduced by October 2025 Amendments*	
Article 11 (2) (b): "carrying an object or substance that is used or can be used for the purpose of causing harm to the life and health of participants in an assembly or demonstration or other persons"	**Fine** of 5,000 GEL and up to 10,000 in case of repetition (15,000 GEL for organizers, 20,000 GEL in case of repetition) **or administrative detention** for a term of up to **15 days or up to 20 days in case of repetition** (20 days for organizers, 60 days in case of repetition), with confiscation of the object of the offense. *Article 174[1] (5) and (6) of CAO*	**Administrative detention for a term of up to 60 days**, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *Article 174[1] (9) of CAO - as amended by October 2025 Amendments*	
Article 11 (2) (c) "carrying tear gas, nerve agent, or/and a poisonous substance"	**Fine** of 5,000 GEL and up to 10,000 in case of repetition (15,000 GEL for organizers, 20,000 GEL in case of repetition) **or administrative detention** for a term of up to **15 days or up to 20 days in case of repetition** (20 days for organizers, 60 days in case of repetition), with confiscation of the object of the offense. *Article 174[1] (5) and (6) of CAO*	**Administrative detention** for a term of up to **15 days (20 days for organizers)** with confiscation of the object of the offense, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *New Article 174[1] (10) of CAO - as introduced by October 2025 Amendments*	
Article 11 (2) (e) "intentionally obstructing the movement of people or vehicles, including	**Fine** of 5,000 GEL and up to 10,000 in case of repetition (15,000 GEL for organizers, 20,000 GEL in case of repetition) **or administrative**	**Administrative detention** for a term of up to **15 days (20 days for organizers)** with confiscation of the object of the	

184 Article 32 (3) CAO provides that administrative detention is not allowed to be imposed on pregnant women, mothers with children under the age of twelve, persons under the age of eighteen, persons with severe or significant disabilities.

violating Article 11[1] of this Law requirements"	**detention** for a term of up to **15 days or up to 20 days in case of repetition** (20 days for organizers, 60 days in case of repetition), with confiscation of the object of the offense. *Article 174[1] (5) and (6) of CAO*	offense, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *New Article 174[1] (10) of CAO - as introduced by October 2025 Amendments*	
Article 11 (2) (f): "organizing a temporary construction if its arrangement poses a threat to the participants of an assembly or demonstration or other persons, interferes with the maintenance of public order and security by the police, hinders the normal functioning of an enterprise, institution or organisation…"	**Fine** of 5,000 GEL and up to 10,000 in case of repetition (15,000 GEL for organizers, 20,000 GEL in case of repetition) **or administrative detention** for a term of up to **15 days or up to 20 days in case of repetition** (20 days for organizers, 60 days in case of repetition), with confiscation of the object of the offense. *Article 174[1] (5) and (6) of CAO*	**Administrative detention** for a term of up to **15 days (20 days for organizers)** with confiscation of the object of the offense, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *New Article 174[1] (10) of CAO - as introduced by October 2025 Amendments*	
Article 11 (2) (g) "participating in an assembly or demonstration that has been terminated at the request of the Ministry of Internal Affairs of Georgia in accordance with Article 13(1) of this Law"	**Fine** of 5,000 GEL **or administrative detention** for a term of up to **60 days**. *Article 174[1] (9) of CAO*	**Administrative detention for a term of up to 60 days**, except for cases covered by Article 32 (3) CAO *(fine of 5,000 GEL (15,000 GEL for organizers))* *Article 174[1] (9) of CAO - as amended by October 2025 Amendments*	

Other Amendments to the Criminal Code	
Previous version	**October 2025 Amendments**
Article 347 of the CC - Violation of the rules for holding an assembly or demonstration Violation of the rules for holding an assembly or demonstration by the organizer of this action, which led to serious consequences, – shall be punishable by **a fine** or **house arrest for a term of six months to two years**, or **corrective labour for a term of up to one year**.	Article 347 (4) of the CC Violation of the rules for holding an assembly or demonstration by the organizer of this action, which led to serious consequences, – shall be punishable by **imprisonment for a term of up to four years**.
	New Article 353[3] of the Criminal Code *Disobedience to a lawful order or request of a military serviceman, an employee of a law enforcement body or an employee of the Special State Protection Service, an enforcement police officer, an employee of the General Inspectorate of the Ministry of Justice of Georgia or an agency or a person equated thereto, or the commission of another unlawful action against such person* 1. The commission of any action specified in the same Article by a person subject to administrative punishment for the commission of an administrative offence provided for Article 173 (3) of the Code of Administrative Offenses of Georgia *[i.e., repeated disobedience to a lawful order of **or** repeated verbal insult, cursing, insulting or other offensive actions against certain public officials]* – shall be punishable by **imprisonment for a term of up to one year**. 2. The same action, committed repeatedly, – shall be punished by **imprisonment for a term of up to two years**. 3. The act provided for in Part One of this Article, committed by a minor, – shall be punished by a **fine** or by **corrective labour for a term of up to one year** or by **imprisonment for a term of up to one year**.

ANNEX 2 – October 2025 Amendments to the Code of Administrative Offences of Georgia

LAW OF GEORGIA

ON THE AMENDMENTS TO THE ADMINISTRATIVE OFFENCES CODE OF GEORGIA

Article 1. The following amendment shall be made to the Administrative Offences Code of Georgia

(Official Gazette of the Supreme Council of the Georgian SSR, No. 12, 1984, Article 421):

1. Article 174[1]:

a) Part 5 shall be formulated as follows:

"5. Violation of the norms provided for in Articles 9 and 11 of the Law of Georgia on Assemblies and Demonstrations (except for subparagraphs "a"–"c" and "e"–"g" of paragraph 2 of Article 11) -

shall entail a fine of GEL 5,000 or administrative detention for a term of up to 15 days, with confiscation of the item used as a tool of the offence, and if the offender is the organizer – in the amount of GEL 15,000 or administrative detention for a term of up to 20 days, with confiscation of the item used as a tool of the offence.";

b) Part 7 shall be formulated as follows:

"7. Violation of the norm stipulated in subparagraph "a[1]" of paragraph 2 of Article 11 of the Law of Georgia on Assemblies and Demonstrations shall entail a fine of GEL 2,000 or administrative detention for a term of up to 7 days, with confiscation of the item used as a tool of the offence.";

c) Part 9 shall be formulated as follows:

"9. Violation of the norms stipulated in subparagraphs "a", "b" and "g" of paragraph 2 of Article 11 of the Law of Georgia on Assemblies and Demonstrations shall entail administrative detention for a term of up to 60 days. In the case provided for in part 3 of Article 32 of this Code, the offender shall be fined GEL 5,000, and if the offender is the organizer of the offence - GEL 15,000.";

d) Part 10 shall de added after part 9, with the following content:

"10. Violation of the norms stipulated in subparagraphs "a[2]", "c", "e" and "f" of paragraph 2 of Article 11 and Article 11[1] of the Law of Georgia on Assemblies and Demonstrations shall entail administrative detention for a term of up to 15 days, with confiscation of the item used as a tool of the offence, and if the offender is the organizer - administrative detention for a term of up to 20 days, with confiscation of the item used as a tool of the offence. In the case provided for in part 3 of Article 32 of this Code, the offender shall be fined GEL 5,000, and if the offender is the organizer in the same case - GEL 15,000.

2. Article 208 shall be formulated as follows:

"Article 208. Cases of administrative offences to be considered by a district (city) court

A district (city) court shall consider cases of administrative offences provided for in part 2 of Article 43, Articles 43^{1}-44^{3}, 44^{5}, 44^{7}-44^{11}, 45-46^{4}, 48, 49, Articles 50^{1}, 51-55^{1}, 55^{3}, 55^{4}, 56, 57-59, 59^{2}-60, 60^{3}–61^{1}, 63-65, 66-69, 69^{4}, 69^{6}, 71, 71^{1}, 72^{1}-77, 78 and 79^{1}-79^{3}, Article 79^{4} (except for parts 2-5 of Article 79^{4}), 79^{5}-80, 82^{1}-82^{5}, 84-86, 87^{1}-89^{3}, 91^{2}, 91^{3}, 94, 95, 99, 100^{1}, 100^{2}, 103^{1}, 104 and 105^{1}, parts 3–7 of Article 115^{2}, parts 3, 5, 6, 8 and 9 of Article 116, part 2 of Article 116^{4}, part 2 of Article 116^{5}, part 2 of Article 116^{6}, part 2 of Article 116^{7}, part 5 of Article 127^{1}, Articles 128^{1}–128^{6}, Articles 143, 144, 144^{10}, 145 and 150, parts 1 and 2 of Article 151, Articles 153 and 153^{1}, parts 2 and 5 of Article 153^{3}, Article 153^{5}, parts 2 and 5 of Article 153^{6}, Articles 154-154^{2}, Articles 155^{1} and 155^{2}, parts 11-20 of Article 155^{3}, parts 3-5 of Article 155^{6}, Articles 155^{7}-156 and 157^{1}-158^{1}, parts 3 and 4 of Article 158^{5}, Articles 159^{4}-159^{10}, Articles 163, 164, 164^{4}, 165-165^{3}, 166 and 166^{1}, part 2 of Article 166^{2}, Article 170^{1}, part 3 of Article 171, Articles 171^{2}–171^{4}, parts 1, 2, 4–6, 8 and 9–18 of Article 171^{5}, Articles 172, 172^{4}–172^{6}, 173, 173^{4}–173^{7}, 173^{9} and 173^{14}-173^{16}, parts 3, 4, 6 and 8–10 of Article 174^{1}, part 4 of Article 174^{15}, Articles 175^{1} and 175^{2}, parts 4, 5, 8, 12 and 13 of Article 177, Articles 177^{8}, 177^{9}, 177^{11} and 177^{12}, Article 177^{13} (only in the case provided for by part 4^{1} of Article 245 of this Code), Articles 178, 179^{1}-179^{3}, 181^{6}, 183, 187, 187^{1}, 189, 192, 195, 196^{3}, 196^{6} and 197^{1}, part 2 of Article 197^{3} and Article 199^{1} of this Code, as well as the cases filed with a district (city) court by an authorized person in accordance with Article 208^{1} of this Code.

3. Part 1 of Article 209 shall be formulated as follows:

"1. The internal affairs bodies of Georgia shall consider cases of administrative offences referred to in Articles 42^{10}, 58^{3}, 86^{1}, 107^{1}–107^{3}, 107^{5}, 108, 114^{1}, 114^{2} and 115^{1}, parts 1 and 2 of Article 115^{2}, Article 116 (except for parts 3, 5, 6, 8 and 9 of Article 116 of this Code), Articles 116^{1}–116^{3}, part 1 of Article 116^{4}, part 1 of Article 116^{3}, part 1 of Article 116^{6}, part 1 of Article 116^{7}, Articles 116^{8}, 118-118^{4}, 119 and 120-123, Article 125 (except for part 16 of Article 125 of this Code), Article 127, parts 1-2^{2} and 6-7^{2} of Article 127^{1}, parts 1 and 2 of Article 128, Article 129^{1}, Article 131 (for administrative offences committed in motor transport), Articles 134, 135^{2}-135^{4}, 139^{5}, 152^{7} and 152^{8}, parts 1, 3 and 4 of Article 153^{3}, parts 1, 3 and 4 of Article 153^{6}, Articles 155 and 156^{2}-156^{4}, part 1 of Article 166^{2}, Articles 167 and 170, parts 1 and 2 of Article 171, Article 171^{1} (against all institutions (except for the Georgian Defence Forces and penitentiary institutions), drivers of vehicles (except for railway, maritime and air transport), owners/possessors of railway, maritime and air transport, as well as individuals (except for administrative offences committed by individuals in railway transport)), parts 1, 2, 5 and 7 of Article 174^{1}, Article 174^{15} (except for part 4 of Article 174^{15} of this Code), Articles 174^{16}-174^{18}, 176^{1} and 176^{3}, Article 177 (except for parts 4,5, 8, 12 and 13 of Article 177 of this Code) and Articles 177^{15}, 180-181^{1}, 181^{3}-181^{5}, 182-182^{5}, 190, 190^{2}–191^{1} and 198^{3} of this Code.".

4. Part 4 shall be added to Article 244 with the following content:

"4. The procedure and conditions for detecting and responding to a photographed or videotaped administrative offence, and identifying the offender (including by using a special programme),

within the competence of the Ministry of Internal Affairs of Georgia, shall be determined by the order of the Minister of Internal Affairs of Georgia."

Article 2. This Law shall take effect upon its publication.

President of Georgia Mikheil Kavelashvili

Tbilisi,

October 16, 2025

ANNEX 3 – October 2025 Amendments to the Criminal Code of Georgia

LAW OF GEORGIA

ON THE AMENDMENTS TO THE CRIMINAL CODE OF GEORGIA

Article 1. The following amendment shall be made to the Criminal Code of Georgia (Georgian Legislative Herald, No. 41(48), 1999, Article 209):

1. Article 347 shall be formulated as follows:

"Article 347. Violation of the rules for holding an assembly or demonstration

1. Commission of any act specified in parts 9 or 10 of Article 174^1 of the Administrative Offences Code of Georgia by a person subject to administrative punishment for committing an administrative offence provided for in the same parts-

shall be punishable by imprisonment for a term of up to one year.

2. The same act, committed repeatedly, -

shall be punishable by imprisonment for a term of up to two years.

3. The act provided for in part 1 of this Article, committed by a minor,

– shall be punishable by a fine or corrective labour for a term of up to one year or by imprisonment for a term of up to one year.

4. Violation of the rules for holding an assembly or demonstration by the organizer of this assembly or demonstration, if the above causes serious consequences, -

shall be punishable by imprisonment for a term of up to four years.“

2. Article 353^3 shall be added to the Code with the following content:

“Article 353^3. Disobedience to the lawful order or request of a military serviceman, a law enforcement officer, an employee of the Special State Protection Service, an enforcement police officer, a representative of the Special Penitentiary Service, an agency or general inspectorate of the Ministry of Justice of Georgia or a person equated to them, or other unlawful actions against these persons

1. Commission of any action provided for in part 3 of Article 173 of the Administrative Offences Code of Georgia by a person subject to administrative punishment for the commission of an administrative offence specified in the same Article -

shall be punishable by imprisonment for a term of up to one year.

2. The same action, committed repeatedly, –

shall be punishable by imprisonment for a term of up to two years.

3. The act provided for in part 1 of this Article, committed by a minor, –

shall be punishable by a fine or corrective labour for a term of up to one year or by imprisonment for a term of up to one year.“

Article 2. This Law shall take effect upon its publication.

President of Georgia Mikheil Kavelashvili

Tbilisi

October 16, 2025.