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Date: 13/05/2025

DH-DD(2025)539

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Meeting: 1531st meeting (June 2025) (DH)

Communication from NGOs (Social Justice Center (SJC), Georgian Young Lawyers' Association (GYLA), European Human Rights Advocacy Centre (EHRAC)) (28/04/2025) in the Makarashvili and Others group of cases v. Georgia (Application No. 23158/20).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1531e réunion (juin 2025) (DH)

Communication d'ONG (Social Justice Center (SJC), Georgian Young Lawyers' Association (GYLA), European Human Rights Advocacy Centre (EHRAC)) (28/04/2025) dans le groupe d'affaires Makarashvili et autres c. Géorgie (requête n° 23158/20) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DH-DD(2025)539: Rule 9.2 Communication from NGOs in Makarashvili and Others v. Georgia.
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DGI
28 AVR. 2025
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28 April 2025

Rule 9(2) Submissions to the Committee of Ministers of the Council of Europe in the Makarashvili group of cases (no. 23158/20) for the CM-DH meeting 1531 (10-12 June 2025) by the Social Justice Center, the Georgian Young Lawyers Association and the European Human Rights Advocacy Centre

I. Introduction and Executive Summary

1. The Social Justice Center (SJC), the Georgian Young Lawyers Association (GYLA) and the European Human Rights Advocacy Centre (EHRAC) submit the present communication to the Committee of Ministers to provide updated information concerning the implementation of general measures in the *Makarashvili group of cases*.

2. This group of cases comprises four judgments of the European Court that reveal systemic flaws in Georgia's administrative offence framework and the lack of effective judicial oversight over police misconduct during public assemblies. In *Makarashvili and Others v. Georgia*, the Court criticized unfair proceedings and the courts' bias favouring police testimony, alongside a violation of the right to peaceful assembly. *Peradze and Others v. Georgia* concerned unlawful arrests and convictions for displaying protest banners, with courts failing to justify the necessity of the interference. In *Chkhartishvili v. Georgia*, the Court found the imposition of a custodial sentence for peaceful protest disproportionate and unjustified. *Dzerkorashvili and Others v. Georgia* addressed the arbitrary detention of LGBTQ activists under the pretext of disobedience, with no effective remedy to challenge such measures. These cases collectively underscore entrenched violations of freedom of expression and assemblies and the urgent need for systemic reform.

3. The present submission highlights systemic and persistent deficiencies in Georgia's administrative offence legislation and its abusive application by police and judiciary in the context of public assemblies. The issues outlined below, based on the observations of civil society organizations, the Public Defender of Georgia (PDO), various bodies of the Council of Europe, the UN and the EU, demonstrate that the violations identified by the Court are symptomatic of a broader state practice aimed at suppressing public dissent, which became particularly evident during the recent pro-European peaceful demonstrations in 2023-2025. The submission addresses the following key concerns:

   - The Code of Administrative Offences of Georgia (CAO), through fundamental flaws, such as lack of legal safeguards against arbitrary arrest and detention, deficient administrative offence proceedings, and recently adopted waves of even more repressive amendments in response to mass pro-European protests in Georgia, continues to serve as a repressive instrument of state control.
   - Systemic deficiencies of the CAO are effectively instrumentalized by police against the continuous pro-European protests, by arbitrary and abusive application of the CAO provisions, mass arrest and subsequent ill-treatment of the protesters, and use of facial recognition technologies to target and retaliate against the demonstrators.
   - Absence of an effective judicial oversight over police conduct, including sham judicial proceedings, shifting of burden of proof onto individuals, sanctioning of protesters by the group of judges who appear to be biased, on fabricated charges, further promotes police impunity and represents another link in the chain of administrative practices of violation of Article 5, 6, 10 and 11 of the Convention.
   - The recent legislative practices by the one-party Parliament, adoption of authoritarian laws targeting critical media and civil society, establishing of artificial barriers for the registration of new opposition parties, signals the ruling party's intentions to consolidate authoritarian rule through legal repressions.

4. The Committee of Ministers has classified this group of cases under the standard supervision procedure. In its action report of 2023, the Government asserted that in these cases "violations stemmed from the assessment and reasoning by the domestic courts in isolated cases rather than shortcomings related to the quality of the legal framework."[1] However, this submission seeks to demonstrate that the violations found by the European Court in these cases reveal a deeply rooted pattern of systemic instrumentalization of administrative legislation to suppress mass pro-European protests, subsequently resulting in numerous repetitive applications to the European Court.

[1] Action plan by the Government of Georgia concerning the case of Makarashvili and Others v. Georgia, 1471st meeting, September 2023 https://hudoc.exec.coe.int/?i=004-62629

5. This communication must be assessed in the context of the rapidly deteriorating human rights situation, with freedom of assembly being among the most suppressed rights, in Georgia. The ruling party has repeatedly responded with violence and repression to pro-European public demonstrations. These included the mass protests of March 2023 against the proposed so-called "Russian Law", as well as subsequent waves of demonstrations in April–May 2024, November–December 2024, and most recently on 2 February 2025. Each of these protest waves was met with escalating brutality and an expanding array of authoritarian tactics. This submission should read together with a Rule 9.2 submission, made by the same group of signatory organisations, in the *Tsintsabadze* group of cases, which addresses the issue of mass ill-treatment of protesters during the above-mentioned demonstrations and the systemic failure to effectively investigate, as a part of the wider systemic issue in the law enforcement system in Georgia.

6. Although civic resistance still persist to date, week by week, fundamental civil and political rights are being systematically dismantled by the ruling party of Georgia; civil society organizations face dissolution due to the imminent threat of criminal prosecution under the Foreign Agents Registration Act (FARA) which will enter into force on 31 May 2025, dozens of civic activists are being subjected to punishment and imprisonment for their ongoing acts of peaceful resistance; public servants are being dismissed solely for expressing support for Georgia's pro-European orientation; threats to ban existing opposition political parties; the rights of LGBTQ+ individuals are being severely curtailed through the adoption of Kremlin-inspired anti-LGBT legislation and critical media faces censorship threats.

7. **In this dire context, we encourage the Committee of Ministers to use this group of cases as a critical platform for raising these ongoing violations with the Georgian authorities and for reaffirming the Council of Europe's commitment to the protection of fundamental human rights, rule of law and democracy in the member states.**

8. **In the light of the unprecedented drastic deterioration of human rights standards in Georgia, we urge the Committee of Ministers to transfer the *Makarashvili group of cases* to the enhanced supervision procedure and call on the State to ensure that Georgia ceases massive misuse of administrative law against peaceful protests and implement comprehensive legislative and policy reforms for the effective execution of the Court's judgments. In particular,**

   - **The Parliament of Georgia must immediately repeal the recently adopted amendments to the CAO and undertake an obligation for the reformation of the CAO;**

- **The Parliament of Georgia must immediately repeal the Law on the Protection of Family Values and related anti-LGBT legislation, which severely undermine the freedom of assembly in the context of LGBT rights, as requested by the CM at its 1521st meeting[2];**
- **The law enforcement authorities must immediately cease retaliatory practice of administrative arrests and detentions against peaceful demonstrators. The Prosecutor's Office must ensure prompt and thorough investigations into all instances of arbitrary arrests carried out by police;**
- **The automated and mass use of facial recognition technology must be immediately discontinued for the purposes of targeting and imposing administrative sanctions on the participants of peaceful assemblies;**
- **The domestic courts must adequately apply the guarantees enshrined in Articles 5 and 6 of the Convention, as well as take into consideration the importance of freedom of assembly and expression, as interpreted by the ECtHR judgments, when adjudicating administrative offence cases;**
- **The authorities must ensure enabling environment for civil society organizations, which play a crucial role in defending freedom of expression and assembly and must not enforce the newly adopted FARA Law.**

9. The undersigned organizations further emphasize that, due to the recent enactment of the FARA Law, requiring the registration of non-governmental organizations as foreign agents and imposing criminal penalties of up to five years of imprisonment for non-compliance, as well as amendments into the Law on Grants, requiring government approval of grants, it is increasingly improbable that we will be able to continue our vital work. These developments significantly hinder our capacity to provide free legal aid to victims of grave human rights violations, to represent them before the European Court, or to submit critical information to the CM regarding the implementation of the Court's judgments.

II. Systemic deficiencies of Georgia's administrative offence legislation

10. While the Government's updated action plan of 16 April 2025 asserts the existence of "appropriate legislative safeguards to prevent arbitrary administrative arrests,"[3] it fails to acknowledge significant deficiencies in domestic legislation. The plan also fails to mention critical assessments by the Venice Commission and the OSCE/ODIHR regarding recent amendments to the CAO and Law on Assemblies and Demonstrations, which have condemned the unjustified broadening of grounds for arrest. Moreover, the Government has not provided concrete statistics on the adjudication of cases concerning the lawfulness of arrests and detentions, nor has it demonstrated how the current legal

[2] See the Committee of Ministers Interim Resolution CM/ResDH(2025)31 in the Identoba group of cases v Georgia, adopted at its 1521st meeting on 4-6 March 2025 (DH)

[3] 1531st meeting (June 2025) (DH) - Action Plan (16/04/2025) - Communication from Georgia concerning the group of cases of Makarashvili and Others v. Georgia, paras 6-25 https://hudoc.exec.coe.int/?i=DH-DD(2025)454E

framework is applied in practice to safeguard individuals against arbitrariness. Instead, the action plan primarily focuses on setting out the provisions in abstract terms under which freedom of assembly can be restricted and administrative arrests imposed.

11. The CAO, under which the applicants in the above cases were sanctioned, serves as a repressive tool used by the authorities to curtail the rights to freedom of expression and freedom of assembly. Originally adopted in 1984 by the Soviet government of Georgia under a totalitarian regime, the CAO has remained largely unchanged, despite repeated calls for reform by Georgian civil society, the PDO,[4] European Commission,[5] and international human rights organizations.[6] According to the analysis by the Research Center of the Parliament of Georgia, the existing Code has serious deficiencies, including disproportionate administrative sanctions for minor offences, disregard for the interests of individuals and tailoring to benefit state authorities.[7] Although the current government has acknowledged these systemic flaws and even established a dedicated reform group,[8] all attempts to replace the Code with a modern legal framework, have remained futile.

12. Rather than undertaking meaningful reforms, the authorities' response to public discontent and mass pro-European demonstrations (in March 2023 and April-May 2024 against the "Russian Law," and in November-December 2024 against the decision to halt the EU accession of Georgia), has been the successive waves of amendments that further erode the already weak safeguards against police abuse. These longstanding deficiencies, fundamentally incompatible with the Convention, have been effectively instrumentalized by the authorities to suppress the public protests and retaliate against critics of the ruling party, civic activists, journalists, and peaceful protesters.

1. Lack of safeguards against arbitrary administrative arrest and detention

13. The CAO lacks sufficient legal safeguards to protect individuals from arbitrary arrest and detention, due to overly broad and vaguely defined grounds for arrest, as well as the absence of effective and timely judicial review mechanisms. As a result, peaceful demonstrators are frequently subjected to mass arrests and detention without any accountability of the officers or meaningful legal redress.

Excessive Detention Periods Without Justification

[4] Public Defender of Georgia, Annual Report on Human Rights Situation, 2018, p. 20 https://ombudsman.ge/res/docs/2019101108583612469.pdf

[5] European Commision, Communication on EU Enlargement policy on Georgia, 2023, pp. 28-29 https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_697%20Georgia%20report.pdf

[6] Human Rights Watch (HWR), Administrative Error, Georgia's Flawed System for Administrative Detention, 2012, p. 2 https://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf

[7] Research Center of the Parliament of Georgia, Reform of the Code of Administrative Offences, 2021, pp. 4-6 https://web-api.parliament.ge/storage/files/shares/kvleviti-centri/kvlevebi/Administraciul-Samartaldargvevata.pdf

[8] Georgian Young Lawyers Association, Reform of the Code of Administrative Offences, 23.10.2024 (available only in Georgian) https://gyla.ge/results/8423

14. Under the CAO, individuals may be subjected to administrative arrest for up to 24 hours, with the possibility of an additional 24-hour extension for the purpose of obtaining evidence for trial provided that an extension is justified in writing.[9] In practice, however, police routinely impose the maximum 48-hour detention without providing reasoned justification and often fail to adduce the required written document. Cases examined in courts show that no evidence is obtained during the detention period, and individuals are released after 48 hours, with court hearings scheduled several days or even weeks later.[10] According to Human Rights Watch, the use of pre-trial detention for administrative offences, which are, by their nature, minor and non-violent offences, is inconsistent with human rights standards prohibiting arbitrary detention, since pre-trial detention is justifiable only where necessary to ensure the proper administration of justice.[11]

Unjustified broadening of administrative arrest grounds

15. The legal grounds for administrative arrest, as set out in Article 244 of the CAO, are excessively broad and vague, granting police wide discretion of interpretation. The arrest measure may be applied for: (a) identification of an individual, (b) drawing up an administrative offence protocol if impossible to draw up on a scene, (c) timely and adequate examination of the administrative offence case and enforcing the ruling on the case, (d) ensuring an individual's appearance before a court and preventing delay in the case, (e) preventing the individual from evading from administrative proceedings, (f) preventing the repeated commission of an offence.

16. It is noteworthy that the last three grounds listed above were added to the CAO in December 2024, via an expedited procedure, in response to mass pro-European demonstrations. The Venice Commission has criticized the introduction of preventive arrest measure as a punitive tool enabling pre-emptive detentions, particularly in the absence of effective domestic remedies to challenge the lawfulness of such measures.[12] The Commission further noted that preventive arrest measure for the administrative offences, which are not of serious nature, and without further clarifications regarding the procedure for its application, is in breach of foreseeability principle.[13]

Lack of effective remedies for challenging lawfulness of arrests

17. The absence of an effective remedy for challenging the lawfulness of administrative arrests remains a systemic and persistent deficiency, which enables arbitrary arrests and detentions by police. Although

[9] Article 247 of the CAO https://matsne.gov.ge/ka/document/view/28216?publication=579
[10] Radio Liberty, " How judges silence beaten protesters when they start talking about violence," 19.12.2024 https://www.radiotavisupleba.ge/a//33245975.html
[11] HRW, Administrative Error, Georgia's Flawed System for Administrative Detention, 2012, p. 20
[12] Venice Commission, Urgent Opinion on Amendments to the Code of Administrative Offences and the Law on Assemblies and Demonstrations, 05.03.2025, paras 40-45 https://www.coe.int/en/web/venice-commission/-/CDL-PI(2025)004-e
[13] Ibid, paragraphs 43-44.

the CAO formally provides for an appeal mechanism, either before a superior authority within the Ministry of Internal Affairs (MIA), or alternatively, before the prosecutor,[14] in practice, this mechanism is illusory and ineffective due to excessive procedural delays and inconsistent application of the CAO provisions. Appeals before the MIA routinely remain unresolved for years, depriving individuals of timely judicial oversight and rendering the remedy futile. Furthermore, the MIA applies an inconsistent approach in handling such complaints, which undermines legal certainty. For instance, when an individual is arrested by the officer of the MIA Patrol Police Department, complaints are dealt within approximately two months and rejected based on formulaic reasoning.[15] If the individual subsequently appeals MIA's decision before the common courts, the court proceedings are unreasonably protracted for years, even on the first instance level.

18. In contrast, when individuals are arrested on administrative grounds by the officers of the MIA Criminal Police Department, upon receiving a complaint challenging the lawfulness of the arrest, the Department suspends its examination until a final court judgment is delivered in the related administrative offence case. Only then is an oral hearing scheduled on the complaint. For instance, in one case involving the arrest of a journalist on 26 January 2024 while covering a protest, the hearing was held after the decision of the Appellate Court (the final instance in administrative offence cases), however, more than a year later, the MIA has not issued a decision yet. As a result, individuals must wait for the MIA's decision before being able to appeal to the common courts, further prolonging access to judicial review.[16] The practice of Georgian authorities means that the delay in the review procedure on administrative offences negatively impacts on the judicial review of administrative arrests. Given the widespread delays in common courts in examining the legality of arrest measures, when the lawsuits are pending for years, this practice constitutes a systemic denial of justice for hundreds of individuals who have been unlawfully deprived of their liberty, due to the absence of available avenues for redress or compensation.

19. Given the issue of legality of administrative arrests is intrinsically linked to the commission of administrative offence, it is imperative that the lawfulness of arrest measures be reviewed simultaneously with the administrative offence cases, which are adjudicated by the common courts within short timelines.[17] The PDO has been advocating that the legality of administrative detention be considered by the court handling the offence case, similar to how it is done in criminal proceedings.[18] However, in practice, trial judges consistently refuse to examine issue of legality during

[14] Article 251 of the CAO https://matsne.gov.ge/ka/document/view/28216?publication=579
[15] Decision of the MIA Patrol Police Department on the case of Merab Chkheidze, 11.01.2025
[16] The case of a prominent journalist, Gela Mtivlishvili
[17] GYLA, Protest Considered as an Offence, 2017, pp. 20-22 (available only in Georgian) https://gyla.ge/files/news/2008/geo.pdf
[18] PDO, Human Rights Report 2023, p. https://ombudsman.ge/res/docs/2024052911382931838.pdf

offence hearings, despite motions of lawyers requesting such review. The judges justify these refusals on account of the existence of a separate proceeding for the latter issue.

Weak procedural guarantees for detainees

20. In addition to these structural deficiencies, individuals deprived of liberty under the CAO, are afforded significantly weaker procedural protections compared to those detained under the Code of Criminal Procedure of Georgia (CCP). Notably, the Code does not require that the right to appeal and timeframes be explained to the arrested individuals, and it is not guaranteed to have a translator. Furthermore, the CAO does not guarantee right to free legal aid, compared to the CCP.[19] The Code also fails to clearly regulate the procedure for notifying family members of their detention. While Article 245 of the CAO formally obliges police to inform relatives if requested by the detainee, the Code lacks specific details on how and at what stage this right should be exercised.[20] The absence of a clear legal mechanism enables arbitrary arrest practice, where the realization of fundamental rights is left to the discretion and goodwill of police.

21. In practice, human rights organizations have consistently reported the serious problems related to the failure to properly inform arrestees of their rights and the grounds for their arrest. Although police formally record in arrest protocols that detainees have been informed about their rights, this is a mere formality, as detainees frequently report that no meaningful explanation was provided to them. In addition, access to lawyers is routinely obstructed, as lawyers struggle to obtain timely information on the whereabouts of the arrestees, especially when they are transferred to other cities of Georgia from Tbilisi due to the lack of space in Tbilisi Temporary Detention Isolators (TDI). Lawyers often have to search the detainees throughout the night and are only able to locate them by visiting the various TDIs across the country.[21]

22. Although administrative detention is a highly restrictive measure, the MIA does not keep statistics on detentions. Despite the lack of statistics on detention itself, the data on placement in TDIs published by the MIA at least provide an opportunity to roughly assess the scale of this mechanism. In 2024, more than 72% of the persons placed in the detention isolators were charged by the MIA with minor hooliganism (Article 166 of the CAO), disobedience to a police lawful order (Article 173 of the CAO), or breach of the rules of assembly (Article 1741 of the CAO), offences most frequently invoked during protests. Accordingly, these figures illustrate that administrative detention is routinely used as a

[19] Ana Natsvlishvili, Human Rights during Arrest and Situation in Georgia, 2017, p. 11 https://cdn.penalreform.org/wp-content/uploads/2018/01/Factsheet_Natsvlishvili_final-2017.pdf
[20] HRW, Administrative Error, Georgia's Flawed System for Administrative Detention, 2012, p. 14
[21] Interpressnews, *"Eight NGOs release a statement concerning the problematic tendencies revealed in the course of defending the individuals arrested on the protests,"* 10.05.2024 (available only in Georgian) https://www.interpressnews.ge/ka/article/798793-8-arasamtavrobo-organizacia-akciebze-dakavebuli-pirebis-uplebebis-dacvis-processhi-gamovlenil-problemur-tendenciebtan-dakavshirebit-gancxadebas-avrcelebs/

repressive tool against participants of peaceful assemblies.[22] Common courts also fail to process and publish data on the number of lawsuits adjudicated concerning the lawfulness of arrest measures and their outcomes.

2. Flaws in administrative offence proceedings

23. The Code provides administrative offences, violation of which is punishable under several thousands of GEL (sometimes reaching 20 000 GEL (approximately 6 380 EUR)) and/or administrative imprisonments up to 60 days. Given the punitive and deterrent nature of these sanctions, these offences have criminal characteristics within the meaning of Article 6 of the Convention. Accordingly, although classified as administrative, these proceedings must be subjected to the guarantees of fair trial.[23] However, the CAO falls fundamentally short of ensuring the protections for the alleged offenders. These shortcomings were criticized by the HRW, noting that provisions of the CAO setting out some of the core protections for the defendants are weak, or vaguely worded, as compared to similar safeguards under the CCP, enabling inconsistent application of the provisions and abuses.[24]

24. In particular, the Code provides short timeframes for the examination of the cases leaving the defence without adequate time to prepare and gather evidence. For instance, offences under Articles 166 (minor hooliganism) and 173 (disobedience to a police lawful order) of the CAO, which are most frequently applied administrative offences against protesters, are adjudicated within three days. If the person is under administrative detention, the Court commences examination of the case immediately after receiving case documents.[25] The UN Working Group on Arbitrary Detention has previously criticized these short timelines as incompatible with the standards of the right to a fair trial.[26]

25. Apart from the above deficiencies, the PDO has criticized the evidentiary standards applied in administrative offence proceedings. While the Code defines the notion of evidence and lists types of evidence, it does not establish the procedure for obtaining or assessing them, unlike the CCP which sets out rules on admissibility, relevance and authenticity of evidence. Most critically, the Code fails to specify a standard of proof for establishing administrative liability. Moreover, judges are not required to explicitly refer in a decision the evidence on which their findings are based. These

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[22] SJC, *"What are the shortcomings of the Soviet-era Administrative Offenses Code?",* 14.03.2025 https://socialjustice.org.ge/ka/products/ra-kharvezebi-akvs-sabchota-droindel-administratsiul-samartaldarghvevata-kodekss-romelsats-kartuli-otsneba-protestis-represiistvis-iqenebs

[23] ECtHR, Makarashvili and Others v. Georgia, (nos. 23158/20, 31365/20, 32525/20), §51 2022 https://hudoc.echr.coe.int/fre?i=001-218940

[24] HWR, Administrative Error, Georgia's Flawed System for Administrative Detention, 2012, p. 11.

[25] Article 262 of the CAO

[26] UN Working Group on Arbitrary Detention, statement upon conclusion of its mission to Georgia (15-24 June 2011) https://www.ohchr.org/en/statements/2011/07/working-group-arbitrary-detention-statement-upon-conclusion-its-mission-georgia

shortcomings, taken together, result in the lack of reasoning of court decisions.[27] While the Government Action Plan 2023 reviews the evidentiary standard under the CAO, it fails to acknowledge how the listed pieces of evidence are evaluated by the common courts in practice or that frequently, the judges deprive the defence opportunity to obtain and present crucial evidence.[28]

26. Another significant shortcoming in the CAO is the impossibility of individualization of sanctions for administrative offences, as it directly prescribes the set amounts of sanctions. The Constitutional Court of Georgia has found that this violates the principle of proportionality and is incompatible with the Constitution of Georgia.[29] A number of Articles of the CAO imperatively establish a single type of penalty, instead of providing a range or allowing some discretion for judges to assess the individual circumstances of the case. Offences with absolutely determined penalties include, among others, wearing a mask at public assemblies (fine - 2000 GEL), blocking a roadway (fine - 5000 GEL), vandalism (fine - 1000 GEL), disfiguring the appearance of the municipality's territory (fine - 1000 GEL), etc. The Code also contains articles that explicitly provide for administrative imprisonment for a specified period as the only form of punishment.[30]

27. The above systemic deficiencies, coupled with the deeply flawed practice of judicial review over the administrative offence cases, which are detailed below, has transformed the CAO into powerful instrument of massive repressions in the hands of the ruling party.

3. Recent amendments explicitly targeting peaceful protests

28. Instead of aligning the CAO to the international human rights standards, the ruling party has introduced series of regressive amendments that further encroach on the peaceful demonstrations, making assemblies almost impossible. In particular, in response to another wave of mass pro-European demonstrations which began on 28 November 2024 when the Prime-Minister announced the decision to halt EU integration process, the ruling party adopted amendments to the CAO and "Law on Assemblies and Demonstrations" through an expedited procedure. The amendments significantly increased sanctions (for the offence of blocking the road, the fines were increased tenfold up to 5 000 GEL, approximately 1600 EUR) for the offences frequently used by police against the demonstrators, as well as introduced a range of new offences. This includes blanket prohibition on wearing facial masks during assemblies, a ban on bringing laser devices to assemblies, and expanding the list for

[27] PDO Human Rights Report 2018, pp. 88-89 https://ombudsman.ge/res/docs/20191011085836124 69.pdf
[28] 1475th meeting (September 2023) (DH) - Action Plan (31/07/2023) - Communication from Georgia concerning the case of Makarashvili and Others v. Georgia, paragraphs 16-22
[29] Constitutional Court of Georgia, "LTD Bekanasi" v. the Parliament of Georgia, N1/2/1475, 2020, https://constcourt.ge/ka/judicial-acts?legal=10212
[30] SJC, *"What are the shortcomings of the Soviet-era Administrative Offenses Code?",* 14.03.2025 https://socialjustice.org.ge/ka/products/ra-kharvezebi-akvs-sabchota-droindel-administratsiul-samartaldarghvevata-kodekss-romelsats-kartuli-otsneba-protestis-represiistvis-iqenebs

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grounds of administrative detention, and introduction of parents' liability for the actions of their underaged children.[31]

29. On 3 February 2025, the ruling party introduced another wave of legislative amendments to the CAO, CCG and "Law on Assemblies and Demonstrations", with the explicitly stated aim of combatting "the core of well-trained agents of foreign forces", and strengthening protections for police officers, civil servants, and the government and equipping them with the tools for this fight.[32] The amendments were also adopted through expedited procedure in three days, by the single-party Parliament and entered into force on 6 February 2025. Among the most concerning changes are the following:

- The maximum period for administrative detention was increased from 15 days to 60 days, which applies specifically to administrative offences related to the exercise of the rights to freedom of assembly and expression.
- Administrative fines were increased disproportionally (compared to the average monthly salary of approximately 700 Euro),[33] in some cases by a factor of ten. For instance, in the case of disobedience of a lawful order of police (Article 173 (1) of the CAO), the maximum fine was increased from 3 000 GEL to 5 000 GEL (approximately 960 EUR to 1600 EUR). Organizers of assemblies are particularly affected, facing fines two to three times higher than those imposed on assembly participants, for violating a very broad range of administrative offences.
- A new offence prescribed by Article 173[16] was added to the Code, which involves verbal insult or other offensive actions against a political official, and/or civil servant during or in connection with the performance of their duties. The wording of this provision is so vague that it could potentially criminalize harsh criticism of politicians, who are expected to demonstrate a high degree of tolerance in relation to their public activities, thereby stifling debate on issues of public importance.
- The definition of "organizer" of the protest was overly expanded, and obligations on them for the behaviours of others were broadened (such as maintenance of public safety during the assembly or eliminating violations of the law committed by others).
- The definition of spontaneous assemblies was also narrowed down, requiring a spontaneous assembly be in response to a 'significant' public event. Moreover, the law sets a requirement of notification in spontaneous assemblies, even in the absence of an identifiable organizer.

[31] GYLA, *"What amendments will be made to the Administrative Offences Code to further restrict the freedom of assembly?"* 16.12.2024 https://gyla.ge/en/post/ra-tsvlilebebi-shedis-administraciul-samartaldargvevata-kodeqsshi

[32] Statement of Mamuka Mdinaradze, the Speaker of the ruling party, "Georgian Dream, 03.02.2025 "https://www.facebook.com/@GDMamukaMdinaradze/?locale=ka_GE

[33] National Statistics Office of Georgia, average monthly salary during quarter III of 2024, https://www.geostat.ge/en/modules/categories/39/wages

- New restrictions blanketly prohibit gatherings in closed places or buildings without the owner's prior written consent, even in closed spaces or private buildings that are suitable for assemblies and ordinarily open to the public.
- The list of locations blocking of which is prohibited was extended to cover bridges, tunnels, overpasses, or key transportation hubs if such obstruction would cause significant harm to the operations of enterprises, institutions, or organizations, or significantly disrupt traffic flow.
- The amendments provide general prohibition on installation of temporary constructions (such as tents, benches, chairs, stages, etc.) if "it is not essential for holding the assembly or manifestation or is unrelated to the purpose of conducting the assembly or manifestation."
- The changes give broad grounds to the police to forcibly disperse the public demonstrations, in case of "mass" violation of the prohibitions, such as wearing face coverings, lasers, tear gasses by protesters.
- Excessive powers were given to the MIA, including the authority to immediately cease assemblies without a court order in case of "mass violation" of the assembly regulations, or prohibit gatherings in case the assembly or demonstration poses an "immediate threat to the constitutional order, as well as to the life and health of citizens."
- Serious sanctions are prescribed for the violations of the above rules, including imposition of imprisonment up to 60 days, for instance for the participation in a peaceful assembly that was terminated by the MIA.
- In some administrative offences (such as blocking the road and other violations of rules governing public assemblies) MIA was empowered to impose an administrative sanction on the spot. Therefore, the individuals have to challenge the offence protocols to the Court, contrary to the presumption of innocence.
- Personal inspection rules were narrowed, by removing the right of the individual to request a witness during their inspection, leaving the individuals without guarantees from police arbitrariness.[34]

30. These amendments were strongly criticized by the Venice Commission and the OSCE/ODIHR, which recommended repealing most of the provisions due to incompatibility with the fundamental principles of the European Convention. As noted by the above institutions, the amendments, adopted in disregard of democratic legislative process, by the single-party Parliament, are both overly broad and vague, posing the risk of subjective and inconsistent application, further infringing on the right to

[34] GYLA, "Georgian Dream Declares Many Aspects of the Right to Protest Illegal - Expedited Amendments to the Code of Administrative Offenses", 05.02.2024 https://gyla.ge/en/post/qartuli-ocneba-protestis-uflebis-bevr-aspeqts-zgudavs

peacefully assembly, while at the same time giving excessive discretion to police without adequate legal redress and due process.[35]

31. It is obvious that these amendments, imposing censorship, disproportionately high fines and deprivation of liberty, criminalizing peaceful forms of expression, are designed to suppress ongoing protests and to consolidate authoritarian rule. Unfortunately, their chilling effect on the enjoyment of civil and political rights is already evident, especially in the context of full institutional capture of the judiciary and other state institutions, which fully serve the interests of the ruling party.

III. Abuse of the CAO by the police to suppress peaceful demonstrations

32. Observation of the handling of the most recent mass pro-European protests in March 2023, Spring 2024, November -December 2024 and 2025 reveals that arrests and sanctioning of protesters have become a part of entrenched administrative practices, often accompanied by police ill-treatment. Well-coordinated actions by different MIA departments on the ground, subsequent approval of police actions by courts, a systematic pattern of ineffective investigations by the Special Investigation Service (SIS) and other state institutions suggest a deliberate strategy to facilitate retaliation and persecution of protesters based on their political opinions and support to EU-integration, through both ill-treatment and cover-up of such abuses.[36]

1. Pattern of mass detentions of protesters and ensuing violation of the arrestees' rights

33. As observed and documented by the human rights groups and the PDO, most of the demonstrators during pro-European demonstrations have been arrested on the grounds of Article 166 (minor hooliganism) and Article 173 (disobedience to and verbal assault of police officer) of the CAO by the police. Interpretation of the above provisions of the CAO is very broad by the police. During the previous two years, more than 10 000 individuals were tried on the mentioned grounds in courts.[37] During public demonstrations against so called "Russian law" on 7-8 March 2023, 146 individuals were arrested on administrative grounds.[38] In the renewed wave of protests against the reintroduction of the same law in April–May 2024, approximately 210 individuals were arrested on account of similar

[35] OSCE/ODIHR, Urgent Opinion on the Amendments to the Law on Assemblies and Demonstrations, the Code of Administrative Offence and the Criminal Code of Georgia (as adopted on 6 February 2025), para 69 https://www.osce.org/files/f/documents/d/2/587466.pdf

[36] Preliminary Findings on the Investigation of Torture and Ill-Treatment Against Protesters in Georgia from 28 November to 20 December 2024, p. 3 https://www.omct.org/site-resources/images/Preliminary-mission-findings-Georgia-Dec-2024-Final.pdf

[37] GYLA, Reform of the Code of Administrative Offenses - What Georgia Must Do to Meet the Necessary Condition for EU Membership, 23.10.2024 (available only in Georgian) https://gyla.ge/results/8423

[38] GYLA, People Against the Russian Law, Assessment of the 7-9 March Assembly Dispersal and Related Facts of Human Rights Violations, 2023, p. 39 https://gyla.ge/files/2020/eng-2.pdf

allegations. This number more than doubled between 25 November and 20 December, when over 500 individuals were arrested on administrative grounds.[39]

34. In practice, the administrative and arrest protocols are drawn up in a highly formalistic manner, with identical allegations against the peaceful protesters in all cases. Usually, individuals are arrested not for committing a specific offence, but merely for being in close proximity to police officers.[40] This demonstrates that the purpose of arrest and detention measures is not the prevention of a specific offence, but rather the indiscriminate removal of individuals from the protest area. Moreover, after transferring to the police stations, detainees are not informed about their rights, they are also often denied the opportunity to notify their families and lawyers of their whereabouts. When inquired about the location of detainees, authorities frequently claim ignorance, leaving families without information for hours.[41] The normalization of such unjustified incommunicado detention practices significantly heightens the risk of ill-treatment and abuse, undermining fundamental safeguards designed to protect detainees.

35. Another serious concern is that the police officers draft administrative arrest and offence protocols containing inaccurate factual details, particularly place and time of the arrest, while allegations against the protesters are mostly fabricated and formulated in identical words.[42] According to some protesters, upon their release, they are pressured to sign statements containing false information about the circumstances of the arrest. This practice stems from the fact that, in practice, during the mass demonstrations, arrest measures are carried out by the MIA special forces officers, but in the arrest reports patrol police officers are noted as the officers conducting arrests who actually have not witnessed the grounds on which the arrest measure was carried out or have not even witnessed the events surrounding the arrest. Since the latter have not witnessed the actual circumstances of the arrest, they fabricate allegations about the arrestees and record false information about their arrest time and place. Subsequently, these fictious arresting officers appear before the courts to support the

[39] GYLA, "Preliminary Findings on the Investigation of Torture and Ill-Treatment Against Protesters in Georgia from 28 November to 20 December 2024", https://gyla.ge/en/post/tsameba-da-araadamianurimopkroba-saerto-gancxadeba?fbclid=IwZXh0bgNhZW0CMTAAAR1TBZ0bbPhu0x01xaWJYANpeZXRg5Xf91NBroXq0DNDbNcrJcLaSiVkgKs_aem_5EOlUkuab_7rICn8D7tETw
See also Joint Allegation Letter by the UN Special Rapporteurs, 20.01.2025 https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=29636

[40] GYLA, People Against the Russian Law, Assessment of the 7-9 March Assembly Dispersal and Related Facts of Human Rights Violations, 2023, p. 39

[41] GYLA, "Preliminary Findings on the Investigation of Torture and Ill-Treatment Against Protesters in Georgia from 28 November to 20 December 2024, 24.12.2024
https://gyla.ge/en/post/t0CMTAAaem_5EOlUkuab_7rICn8D7tETw

[42] GYLA, People Against Russian Law, pp. 43-44

charges and provide false witness testimonies during trials.[43] Furthermore, evidence presented by victims to refute these false testimonies are disregarded by judges.

2. Mass ill-treatment and other repressive tools for the suppression of protests

36. Although instances of police brutality have become increasingly visible in Georgia in recent years, the public demonstrations of November-December 2024 marked an unprecedented escalation in both scale and severity. Administrative arrest, detention and sanctioning of protesters constitute one component of a broader strategy established by the authorities to "manage" the protest activities.

37. In the course of these demonstrations, the majority of arrestees reported being subjected to ill-treatment by police officers. Police brutality intensified significantly during the most recent wave of protests in November-December 2024 (for detailed information please see our submission on the *Tsintsabadze group of cases*). The consortium of international and Georgian organizations that observed the protests, documented that upon arrest, individuals were isolated from the crowd, and then beaten by masked officers, sometimes after being transferred in police vehicles designed for the purpose of further ill-treatment.[44] Victims also reported that they were subjected to insults, threats, and degrading and humiliating language. Alarmingly, a growing number of arrestees were transferred to hospitals due to severe physical injuries requiring surgeries. The same organizations concluded that the evidence proves existence of coordinated policy and practice of systemic torture and other forms of ill-treatment directed at protesters by police [45]

38. During 2024 November-December protests, police employed a range of other repressive measures, including: illegal dispersal of mass largely peaceful protests, arbitrary and excessive use of riot control agents for dispersal, ill-treatment of the protesters often amounting to torture, strip-search of detained civic activists and politicians detained on administrative charges,[46] attacks by private individuals against protesters and journalists, forced summoning of individuals for interrogation, search and seizure in the offices and homes of activists and politicians, criminal prosecution against the protesters based on fabricated charges, [47] threat and mass dismissal of over 700 civil servants from various public institutions who signed pro-European statements.[48]

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[43] Radio Liberty, *"Police officers as "false witnesses" - we examine the testimonies of 20 of them,"*22.02.2025 (available only in Georgian) https://www.radiotavisupleba.ge/a/33323442.html

[44] GYLA, Preliminary Findings on the Investigation of Torture and Ill-Treatment Against Protesters in Georgia from 28 November to 20 December 2024, 24.12.2024

[45]Ibid

[46] PHR, "*Forcing people to undress is against the recommendations of the Committee for the Prevention of Torture," 30.03.2025* https://tabula.ge/ge/news/732721-phr-gashishvlebis-idzuleba-ecinaaghmdegeba

[47] GYLA, "10 Days of Terror Against the Peaceful Protests," 08.12.2024 https://gyla.ge/en/post/terororis10dge

[48] Transparency International Georgia, Georgian Dream's Repressions in Public Service, 14.04.2025 https://www.transparency.ge/en/post/georgian-dreams-repressions-public-service

DH-DD(2025)539: Rule 9.2 Communication from NGOs in Makarashvili and Others v. Georgia.
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to the legal or political position of the Committee of Ministers.

3. Use of facial recognition cameras to persecute protesters

39. In response to ongoing protests which erupted on 28 November 2024, police have effectively instrumentalized the recently tightened provisions of the CAO, along with facial recognition technologies to target and persecute peaceful protesters. After the number of protesters on Rustaveli Avenue began to decline in number, the MIA installed additional surveillance cameras on street lighting poles along the Avenue and on the Parliament building. The facial recognition technology, which was purchased by the MIA in December from Chinese companies, is being actively used to identify, target and sanction protesters for allegedly blocking the road.[49] the technology is used to identify protestors in existing government databases, potentially violating data protection regulations on a wider scale. Protestors are then issued administrative offences directly by police long after their presence at the event.

40. Later, it became known to the public that the MIA paid 500 000 GEL (approximately 160 000 EUR) for Chinese-produced surveillance cameras which are capable of voice recording too.[50] These highly intrusive technologies enable police to process extremely sensitive personal information of thousands of individuals, including their biometric identifiers and special categories of data, and information on their political opinions. Moreover, police employ these cameras to monitor protesters' actions in real time by zooming in and tracking their movements while on gathering.[51]

41. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has called for the prohibition of indiscriminate and untargeted surveillance of those exercising their right of peaceful assembly, noting that surveillance of protesters should only be conducted on targeted basis, and only when there is reasonable suspicion that they are engaging in or planning to engage in serious criminal offences, based on principles of necessity and proportionality and with judicial supervision.[52] It is not known for the public, how the police processes and for what purposes it stores facial images of thousands of individuals, especially considering the absence of procedural guarantees for the protection from arbitrariness.

42. This form of intrusive surveillance has become a significant tool for shrinking civic space, creating fears of targeted identification and potential of retaliation. Such fears further contribute chilling effects, especially among vulnerable groups, such as civic servants, who although have right to

[49] SJC, "*Social Justice Center will Challenge the Unlawful Use of Facial Recognition Cameras to Fine Individuals"*, 19.03.2025 https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentri-sakhis-amomtsnobi-teknologiis-mokalakeebis-dajarimebis-miznit-gamoqenebis-ukanonobaze-idavebs

[50] TV Pirveli, *"MIA Purchased Cameras with Voice Recording Function to be Installed on the Streets",* 15.03.2025 (available only in Georgian) https://tvpirveli.ge/ka/siaxleebi/sazogadoeba/96595-

[51] GYLA, "The Ministry of Internal Affairs Uses Facial Recognition Technologies against Peaceful Demonstrators for Total Control," 12.03.2025 https://gyla.ge/en/post/saxis-amomcnobi-kamerebi-saia

[52] Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2019, A/HRC/41/41, para. 57. https://docs.un.org/en/A/HRC/41/41

participate in peaceful protests, fear reprisals and dismissal. These fears are intensified by the fact that wearing facial coverings during the protests is prohibited and punishable by a fine of 2000 GEL (approximately 650 EUR). People feel vulnerable, surveilled and unprotected while participating in demonstrations. This atmosphere, coupled with the fears of excessively high fines, discourages people from exercising their right to freedom of assembly.

43. As noted above, fines for blocking roads increased tenfold following amendments adopted in December 2024. Police now directly impose fines on the civic activists, journalists performing their professional duties and politicians on a daily basis.[53] Some activists have been fined for 16 times (80 000 GEL in total) simply for participating in peaceful protests.[54] As of 19 March 2025, the total sum of fines imposed on the protesters amounted to 2 million GEL.[55] In order to exacerbate the financial impact of these sanctions on individuals, on 18 March 2025, the Prosecutor's Office (PO) seized financial resources collected by private individuals and businesses, as well as the bank accounts of two NGOs and three funds which had been created to raise funds for paying the fines of protesters and assist the political prisoners and people severely affected due to their participation in the civic resistance.[56] According to the PO, basis for the seizure is an ongoing investigation which concerns the allegations of sabotage, assistance to a foreign organization in hostile activities, and mobilization of funds for activities directed against the constitutional order and national security of Georgia.[57] It can therefore be alleged that the purpose of the investigation was to freeze the funds, as the details of the investigation have not been made public.

44. Moreover, due to the changes adopted on 6 February 2025, police directly impose fines on the protesters without mandatory judicial review and the individuals who disagree with the fines, can challenge the fines in courts only after appealing to the MIA. In courts, the police only present the video footage depicting individuals on Rustaveli Avenue, and the courts uphold the fines imposed by the police on the protesters based on this information, with identical formulaic arguments that the individual fined by the police blocked the road when there were not enough people necessitating blocking the road. The court deems the individuals as offenders even in cases when they did not participate in the process of blocking road but joined the protest after that moment.[58] The way how the police inform the fined individuals of their fines also appear to be a part of the retaliatory practices.

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[53] Radio Liberty, *"If you are a journalist, prove it in court" - Journalists are also fined for blocking the road February 20, 2025 Nino Tarkhnishvili",* 20.02.2025 https://www.radiotavisupleba.ge/a/33321914.html

[54] Radio Liberty, "Fined 16 times,"11.03.2025 https://www.radiotavisupleba.ge/a/33344137.html

[55] Tabula, *"GYLA: Fines issued to protesters for blocking the road reach 2,000,000 GEL",* 19.02.2025 https://tabula.ge/ge/news/732119-saia-gzis-gadaketvis-gamo-momitingeebistvis

[56] SJC, "The seizure of funds is another aggressive attempt to punish protests and persecute civil society organizations", 18.03.2025 https://socialjustice.org.ge/ka/products/fbL11oqgxA

[57] Statement of the PO, 17.03.2025 https://pog.gov.ge/news/saqartvelos-prokuraturis-gantskhadeba-4736?lng=eng

[58] SJC, "What to know about the new fining practice", 23.02.2025 https://socialjustice.org.ge/ka/products/ra-unda-vitsodet-dajarimebis-akhali-praktikis-shesakheb

In some cases, they called the protesters or visited their homes in the very late hours of the night, or called their family members, to give them the offence protocols or notify about the fine, which is seen as yet another tool of intimidation in the current context.

IV. Absence of effective judicial review

45. The police arbitrariness remains unchallenged due to ineffective judicial review over their conduct during peaceful demonstrations. Apart from protracted and futile court proceedings on the review of lawfulness of arrest measures, the administrative offence proceedings also fall short of meeting the requirements of fair trial. These shortcomings include lack of reasoning in court judgments, shifting of burden of proof onto the alleged offenders, and granting unjustified and unexplained weight to police testimonies.

46. The above-mentioned problems are longstanding. Back in 2012, the HRW report highlighted the problems in upholding detainees' right to fair trial, because of perfunctory manner of trials, rarely lasting more than 15 minutes, judicial decisions which relied almost exclusively on police testimonies, lacked reasoning and judges' ignorance of visible signs of ill-treatment on the detainees. [59] The PDO Human Rights Reports also persistently underline that the CAO fails to reflect guarantees of a fair trial.[60] These systemic shortcomings remain prevalent today and are particularly evident in the trials against peaceful demonstrators.

1. Lack of reasoning of court judgments and violation of presumption of innocence

47. As observed by the NGOs representing protesters in courts, lack of adequate reasoning of judgments is a serious systemic problem. Analysis of numerous judgments reveal identical lines of arguments by the courts. The judges routinely disregard the video evidence and witness statements, as well as statements of alleged offenders, as lacking credibility due to their "interest in the proceedings," while grant unjustified weight to the testimonies of police officers. In all of these judgments, the judges shift burden of proof on the defendants, noting that they failed to provide any evidence capable of refuting the allegations raised by the police officers.

48. The PDO has consistently criticized the absence of a clearly defined evidentiary standards and the ensuing practice of domestic courts in which individuals are found guilty of administrative offences solely on the bases of police officers' testimonies and administrative arrest and offence protocols compiled by them. According to the PDO, these shortcoming result in the unsubstantiated judgments based on the single piece of evidence.[61] In addition, courts fail to draw attention to the fact that, as a rule, police fails to present a neutral video evidence, such as body cameras on the grounds that cameras

[59] HRW, Administrative Error, Georgia's Flawed System for Administrative Detention, 2012, p. 13
[60] PDO Human Rights Report 2023, p. 73 https://ombudsman.ge/res/docs/2024052911382931838.pdf
[61] PDO Human Rights Report, 2022, p. 73 https://ombudsman.ge/res/docs/2023120411211781277.pdf

did not work properly or had been removed to prevent their damage during the assembly.[62] Furthermore, the PDO noted that courts, when adjudicating cases on the disobedience to lawful order of police (Article 173 of the CAO), fail to examine and scrutinize the legality of an order given by the police officer and only establish the fact of disobedience.[63]

49. In its updated action plan, the government notes that domestic courts are guided by the case law of the European Court. However, it fails to acknowledge that, in practice, common courts often cite ECtHR case-law manipulatively. A particularly concerning example is the frequent reliance on arguments that have already been criticized by the European Court in the case of *Makarashvili and Others.* Specifically, courts commonly justify the sanctioning of individuals by emphasizing the „decisive role of police officers' testimonies in determining administrative offence cases." These testimonies are portrayed as „exceptionally informative and the primary source of evidence," with courts asserting that the „officers' professional responsibilities and sense of civic duty render their statements particularly reliable."[64]

50. The above-mentioned deficiencies in the CAO regulating administrative offence proceedings, as well as their application by the courts in practice, have become a powerful tool for the authorities to intimidate and sanction the protesters. As reported by the NGOs, in almost all cases examined in the context of peaceful demonstrations, the courts find the arrestees guilty of offending the alleged offences, and apply harsh sanctions, including administrative imprisonments. The judgments against the peaceful protesters are not based on any neutral evidence, but rather on the contradictory explanations of the police officers. Even more, they disregard the video evidence provided by the arrestees which prove their innocence.[65] As observed by the GYLA, the judgments of the Tbilisi City Court and Tbilisi Appellate Court do not include any description of the particular offence the individuals were accused of. They also fail to provide explicit explanation of what particular actions of the accused offenders constituted an administrative offence."[66] Because of the above-mentioned systemic deficiencies, imposition of excessively high penalties on the individuals who were arrested arbitrarily, without any justification, and subsequently ill-treated by police, carries the signs of deliberate strategy of political persecution.

51. Other problems in the judicial proceedings include lack of time to prepare an effective defence. In practice, when a large number of protesters are detained on administrative grounds, in many instances, they are taken to the court trial directly from the police facilities and on some occasions, court hearings

[62] GYLA, People Against Russian Law, pp. 46-47
[63] PDO Human Rights Report 2018, p. 90. https://ombudsman.ge/res/docs/2019101108583612469.pdf
[64] Tbilisi City Court's Judgment on the case of Giorgi Menteshashvili, 21.05.2024
[65] IPN, *"Eight NGOs release a statement concerning the problematic tendencies revealed in the course of defending the individuals arrested on the protests,"* 10.05.2024 (available only in Georgian)
[66] GYLA, People Against the Russian Law, p. 46

continue after working hours. Therefore, the defence has approximately 2-3 hours to prepare for the case, and defence motions on the postponing of hearing is rejected, which results in impossibility to obtain evidence, to prepare defence positions.[67]

2. Lack of impartial tribunal in administrative cases

52. The most of the administrative offence cases against the participants of peaceful protests are adjudicated by six judges at the Tbilisi City Court, which are notorious and widely criticized for their close affiliation with the politically influential group of judges within the justice system, commonly referred as the "judicial clan". The judges adjudicating administrative cases against the protesters were also responsible for examining election complaints of widely considered as rigged 2024 Parliamentary Elections, all of which were decided in favour of the Central Election Commission. After the mass demonstrations, when these judges sanctioned the beaten-up demonstrators with fines and administrative imprisonments, they were sanctioned by Lithuania and Estonia, on the grounds of their repressive judicial politics against the demonstrators.[68]

53. Some of the most powerful judges within this group have been sanctioned by the US State Department due to abuse of power and their involvement in significant corruption, undermining the rule of law and the public's faith in Georgia's judicial system in April 2023.[69] Subsequently, the ruling party hindered the opposition's initiative to create investigative commission in response to these circumstances, in an attempt to cover up their close informal connections and acquiesce.[70]

54. The systemic and deep-rooted problems in Georgian justice system were acknowledged by the EU Commission, which requested from the Government to conduct vetting procedure in the framework of the Georgia's EU accession process. In response, the ruling party categorically rejected this requirement and demanded apologies from international partners on account of "discrediting judges."[71] The Supreme Court of Georgia denounced the vetting initiative claiming that it would

[67] Ibid, pp. 44-46

[68] Courtwatch, *"Sanctioned Georgian Judges"* (available only in Georgian) 19.12.2024 https://courtwatch.ge/en/articles/sanctioned-judges-en

[69] Statement by Secretary Antony J. Blinken: Public Designations of Mikheil Chinchaladze, Levan Murusidze, Irakli Shengelia, and Valerian Tsertsvadze, Due to Involvement in Significant Corruption, 05.04.2023 https://ge.usembassy.gov/public-designations-of-four-individuals-associated-with-the-georgian-judiciary-due-to-involvement-in-significant-corruption/

[70] Transparency International Georgia, *"Georgian Dream Protects the Interests of the Clan",* 19.04.2024 https://transparency.ge/en/post/georgian-dream-continues-protect-interests-clan

[71] Radio Liberty, "EU Demands Vetting, GD – an apology", 28.03.2024 https://www.radiotavisupleba.ge/a/32881512.html

"undermine the independence of the judiciary and the individual judges" as well as "the public trust towards judicial system", thus "facilitating political control" over the judiciary.[72]

55. These judges have been appointed by the High Council of Justice, an institution which is under the control of the above-mentioned influential group. According to civil society organizations, the High Council of Justice (HCJ) is ruled by an influential group of judges, which promotes and appoints only the judges who take decisions favouring the interests of the ruling party. The problematic and discriminatory practices of appointment of judges have been also criticized by the European Court in the case of Bakradze v. Georgia.[73] Most of the judges who are in charge of examination of administrative offence cases, were appointed by the HCJ for a lifetime term in recent years, and do not have any professional experience apart from the experience within the court system,[74] which indicates their close affiliation and personal relations with the "clan".

56. Therefore, as demonstrated by available statistical data,[75] sham judicial proceedings, and generic judgments in the administrative offence cases against the peaceful demonstrators, which were aimed at retribution against the opponents of the ruling party, there is a systemic problem of independence and impartial tribunal in Georgia.

V. Authoritarian tendencies and crackdown on civil liberties

57. Over recent years, legal repressions have become a norm in Georgia. Over recent months, the Parliament adopted series of repressive and authoritarian laws, including the copy of the US FARA, amendments to the media regulations, and restrictions for the operation of political parties.[76] These authoritarian laws are directed at destroying civil society, undermining basic civil and political rights, shutting down NGOs and free media.

58. Adoption of the FARA serves the intention of the ruling party to use it as an analog instrument to achieve the same outcomes for which the Russian-style "Law on Transparency of Foreign Influence" was adopted,[77] - to pressure civil society, label them as "traitors" and "enemies of nation" and, ultimately, to silence their voices from the public sphere. The FARA law provides disproportionately high fines and personal liability of up to five years imprisonment in case of non-compliance with its

[72] Civil.ge, *"Supreme Court Denounces Proposed 'Vetting' as Threat to Judicial Independence",* 11.03.2024 https://civil.ge/archives/586544
[73] Bakradze v. Georgia (app. no. 20592/21), 2024 https://hudoc.echr.coe.int/eng?i=001-237811
[74] Courtwatch, *"Sanctioned Georgian Judges"* (available only in Georgian) 19.12.2024
[75] Statement of the Non-Governmental Organizations Legal Aid Network, 17.02.2025 (available only in Georgian) https://www.facebook.com/share/p/1ALyzY3wzV/
[76] SJC, *"Critical Assessment of the Draft Law on the Banning of Political Parties",* 15.04.2025 https://socialjustice.org.ge/en/products/partiebis-akrdzalvis-kanonproektis-kritikluli-shefaseba
[77] SJC, "FARA Does Not Apply to Civil Society and Media Organizations", 09.03.2025 https://socialjustice.hi-samokalako-da-media-organizatsiebze-ashsh-shi

provisions. Notably, the adoption of "Agents' laws" modelled after Russia, is a manifestation of the authoritarian governance model.

59. As part of the ruling party's efforts to stifle the remaining independent spaces and critical media outlets, the Parliament adopted amendments in the "Law on Broadcasting" which further undermine media freedoms and freedom of expression by imposing substantive restrictions and regulations on the activities of broadcasters, restricts possibility for media to obtain funding from foreign sources, and increases control over media organizations through the state controlled public institution, Communications Commission.[78]

60. The above tactics are part of the greater endeavour of the ruling party on the way to consolidation of autocracy. By legalizing repression, the "Georgian Dream" seeks to create a facade of legality and a pretext for legitimizing violence against civil protests. While the use of brutal force may spark public outrage and escalate demonstrations, based on repressive laws, the government can suppress dissent even through nonviolent means by leveraging their slow acting yet chilling effect. In a system where state institutions - most notably the judiciary - are fully captured and serve the party's interests rather than acting as check and balance, repressive laws pose an even greater threat to citizens engaged in resistance. Alarming loss of freedom of expression and deterioration of democracy in Georgia has been observed by international organizations too. According to V-dem's report "25 Years of Autocratization", Georgia joined the list of electoral autocracies in 2024, descending from an electoral democracy.[79]

61. We regretfully reiterate that the above-mentioned laws will make it impossible for us, the submitting organizations, to continue our work in holding the State authorities accountable for gross human rights violations, including undermine our ability to submit communications to the Committee of Ministers regarding the implementation of the judgments of the European Court.

VI. Conclusion and recommendations

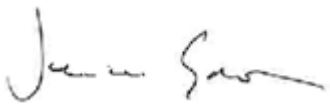
In light of the alarming developments in Georgia, in the absence of any effective domestic remedies or independent state authorities, it is of utmost importance to create an international venue for the close scrutiny of the ruling party's abusive, retaliatory practices against individuals who exercise their right to peaceful assemblies, and to protect them from legal terror, including abusive use of administrative justice system.

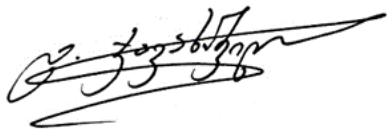
[78] SJC, "Proposed amendments to the "Law on Broadcasting" undermine freedoms of media and expression", 12.03.2025 https://socialjustice.org.ge/en/products/mautsqeblobis-shesakheb-kanonshi-initsirebuli-tsvlilebebi-dzirs-utkhris-mediis-da-gamokhatvis-tavisuflebebs

[79] V-Dem, Democracy Report 2025, 25 Years of Autocratization – Democracy Trumped?, p.26 https://www.v-dem.net/documents/60/V-dem-dr__2025_lowres.pdf

We call on the Committee of Ministers to transfer the Makarashvili group of cases to an enhanced supervision procedure and request the Government to urgently provide an action plan detailing the actions necessary for the adequate execution of the judgments in terms of general measures. Specifically,

- The Parliament of Georgia must immediately repeal the recently adopted amendments to the CAO and undertake an obligation for the reformation of the CAO;
- The Parliament of Georgia must immediately repeal the Law on the Protection of Family Values and related anti-LGBT legislation, which severely undermine the freedom of assembly in the context of LGBT rights, as requested by the CM on its 1521st meeting;
- The law enforcement authorities must immediately cease retaliatory practice of administrative arrests and detentions against peaceful demonstrators. The Prosecutor's Office must ensure prompt and thorough investigations into all instances of arbitrary arrests carried out by police;
- The automated and mass use of facial recognition technology must be immediately discontinued for the purposes of targeting and imposing administrative sanctions on the participants of peaceful assemblies;
- The domestic courts must adequately apply the guarantees enshrined in Articles 5 and 6 of the Convention, as well as take into consideration the importance of freedom of assembly and expression, as interpreted by the ECtHR judgments, when adjudicating administrative offence cases;
- The authorities must ensure enabling environment for civil society organizations, which play a crucial role in defending freedom of expression and assembly and must not enforce the newly adopted FARA Law.





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