

CIVIL RIGHTS FACING INCREASED POLICE TERROR



Georgian Young Lawyers' Association

**CIVIL RIGHTS
FACING INCREASED
POLICE TERROR**

Tbilisi
2024



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CONTEXT

One month has passed from 28 November 2024, since then, Georgia has become covered with a large-scale legitimate protest. The protests are taking place every day in Tbilisi and other cities of Georgia. The legitimate protest has been sparked by the suspension of the EU accession negotiations by the “Georgian Dream”,¹ which directly contradicts Article 78 of the Constitution of Georgia (*“The constitutional bodies shall take all measures within the scope of their competences to ensure the full integration of Georgia into the European Union and the North Atlantic Treaty Organization”*²). In addition, these protests also represent a continuation of previous protests, held throughout different periods of 2024, regarding the elections and, generally, the backsliding of democracy in Georgia and the sharp deterioration of the human rights situation.

Despite the fact that the demonstrations are peaceful,³ the ongoing protests are arbitrarily and violently dispersed by the police forces. Local non-governmental organizations, the Public Defender of Georgia as well as, international and regional human rights monitoring organizations have unanimously condemned the use of brutal force. Particularly:

The OSCE Human Rights Office stated that the disproportionate and indiscriminate use of force impacted a large number of protestors and journalists during protests in which the overwhelming majority of demonstrators were peaceful.⁴ In addition, the OSCE Troika (Malta, North Macedonia, Finland) strongly condemned the Georgian authorities’ violent response to peaceful protests by Georgian civil society, independent media, and politicians, who are standing up for the country’s democratic future and urged the Georgian authorities to immediately cease the use of repressive tactics and intimidation, including arbitrary detention and physical violence.⁵ According to the Council of Europe Commissioner for Human Rights, the police used disproportionate force against predominantly peaceful demonstrators and journalists covering the ongoing protests in Georgia.⁶ As stated by the three special Rapporteurs of the United Nations, they are seeing “[...] daily violence by state security forces against peaceful protestors, mass arbitrary arrests and criminalisation, and a smear campaign by the government and state agencies under its control to stigmatise and intimidate protestors, in particular young people, civil society and human rights defenders.”⁷ As per the assessments of the “Amnesty International”, the scale of the unlawful force and

¹ Euronews, “We decided not to put the issue of opening accession negotiations with the European Union on the agenda until the end of 2028” - Irakli Kobakhidze, 28.11.2024, <https://euronewsgeorgia.com/2024/11/28/miviget-gadawkvetileba-2028-wlis-bolomde-dgis-wesrigshi-ar-davakenot-evrokavshirtan-molaparakebebis-gaxsnis-sakitxi-irakli-kobakhidze/>, [27.12.2024].

² The Constitution of Georgia, Article 78, <https://matsne.gov.ge/ka/document/view/30346?publication=36>, [27.12.2024].

³ OSCE Office for Democratic Institutions and Human Rights, OSCE human rights office condemns use of excessive force by police during protests in Georgia, 30.11.2024, https://www.osce.org/odhr/581962?fbclid=IwY2xjawHCHQNleHRuA2FlbQlxMQABHQ9IheQTVJCFJ3oLK1xeP8PAfxi3iaEjQgzCmSJ_XIMYI0IstC5tLMPHg_aem_XXvlpTvRDJK4xDqh5nHi8A, [27.12.2024].

⁴ *ibid.*

⁵ Troika, OSCE Chairpersonship, Statement by the OSCE Troika on the Situation in Georgia, 13.12.2024, <https://www.osce.org/chairpersonship/583315>, [27.12.2024].

⁶ CoE, Commissioner for Human Rights, Georgian authorities must fulfil their obligation to uphold the right of peaceful assembly, 04.12.2024, <https://www.coe.int/en/web/commissioner/-/georgian-authorities-must-fulfil-their-obligation-to-uphold-the-right-of-peaceful-assembly>, [27.12.2024].

⁷ Georgia: UN experts concerned by widespread human rights violations amid ongoing protests, 13.12.2024, <https://www.ohchr.org/en/press-releases/2024/12/georgia-un-experts-concerned-widespread-human-rights-violations-amid-ongoing>, [27.12.2024].

torture and other ill-treatment used by police suggests that they are operating under government sanctioned directives, and emboldened by impunity.⁸ According to **Human Rights Watch** The level of the authorities' violence against largely peaceful protesters is shocking, blatantly retaliatory, and violates Georgia's domestic laws and international norms. The scale of the police ill-treatment of protesters and the failure of Georgian authorities to hold them accountable for it indicates they either authorized or condoned the violence.⁹ According to the **preliminary findings of the joint mission of the member organizations (IRCT, IFEG, OMCT, Omega Research Foundation) of the United Against Torture Consortium (UATC)**¹⁰ „The consistency of these testimonies, the recurring nature of such incidents throughout the three weeks of protests, and the lack of accountability for acts of torture and ill-treatment suggest a systematic and coordinated policy of repression. This appears to be designed to foster an environment of fear, intimidation, and retaliation against those publicly opposing government policies.”¹¹ „The pattern of injuries sustained by individuals does not support the suggestion of a two-sided physical altercation such as a common fight or brawl between protesters and police. Altogether, the forensic evidence, including injury patterns, suggests a coordinated policy and practice of systematically torturing and ill-treating protesters and supporters, often after they are already under the physical control of the police”¹²

Since April 2024, the Georgian authorities have consistently used police violence, intimidation, and other practices that violate both national and international human rights laws.¹³ However, since 28 November 2024, the Government's tactics for suppressing peaceful, legitimate protests have escalated to a new level of severity.¹⁴ **Following developments have**

⁸ Amnesty International, Brutal Crackdown on Protesters and Journalists in Georgia: “They May Have Broken Our Bones, But They Won’t Break Our Spirits” Testimonies of Survivors of Human Rights Violations Amidst Protests in November–December 2024 in Georgia, 2024, p2, <https://www.amnesty.org/en/documents/eur56/8845/2024/en/>, [27.12.2024].

⁹ Human Rights Watch, Georgia: Brutal Police Violence Against Protesters, 23.12.2024, <https://www.hrw.org/news/2024/12/23/georgia-brutal-police-violence-against-protesters?ref=oc-media.org>, [27.12.2024].

¹⁰ United Against Torture Consortium – UATC, which was established in 2023 brings together the global memberships of the World Organisation Against Torture (OMCT), the International Rehabilitation Council for Torture Victims (IRCT) and the International Federation of Action by Christians for the Abolition of Torture (FIACAT) with the Association for the Prevention of Torture (APT), Omega Research Foundation and REDRESS. One of the reasons for establishing UATC was increasing concern regarding torture, other inhumane treatment and human rights violations that take place before, during or after protests and other public gatherings. From 10-24 December 2024, the International Rehabilitation Council for Torture Victims (IRCT), together with its Independent Forensic Expert Group (IFEG), and the World Organisation Against Torture (OMCT) conducted a joint mission to Tbilisi in support of GYLA, GCRT, HRC and other Georgian organisations. Omega Research Foundation assisted this mission with research. See: IRCT, IFEG, OMCT, Omega Research Foundation, GYLA, GCRT, HRC, 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/post/tsameba-da-araadamianurimopkroba-saerto-gancxadeba>, [27.12.2024].

¹¹ IRCT, IFEG, OMCT, Omega Research Foundation, GYLA, GCRT, HRC, 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/post/tsameba-da-araadamianurimopkroba-saerto-gancxadeba>, [27.12.2024].

¹² Ibid.

¹³ For the detailed description of these violations, see: “Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill”, 2024, <https://gyla.ge/files/აღამიანის%20უფლებები%20რუსული%20კანონის%20პირისპირ.pdf>, [27.12.2024].

¹⁴ GYLA, The ongoing protest on Rustaveli Avenue is being dispersed with unlawful and disproportionate use of force, 29.11.2024, <https://gyla.ge/en/post/%20Darebva-kvlav-araprprciuli-zaliat-da-ukanonod-mimdinareobs>, [27.12.2024]; GYLA, The Ministry of Internal Affairs continues to suppress legitimate protests through demonstrative violence in Tbilisi and Batumi, 29.11.2024, <https://gyla.ge/en/post/Gyla-gancxadeba-aqciisdzaladobit-darebva>, [27.12.2024]; GYLA, Situation on Rustaveli Avenue, 29.11.2024, <https://gyla.ge/en/post/29-30octomberi>, [27.12.2024]; GYLA, Throughout the night, riot police repeatedly used special forces against peaceful demonstrators in over a dozen incidents, employing water cannons and tear gas, 02.12.2024, <https://gyla.ge/en/>

taken place:

- **Torture; inhuman; degrading treatment of a large group of demonstrators and media representatives; the absolute majority of the arrested people have been beaten.**
- **Violation of not only the rules for employing active special means (water cannons, tear gas, pepper spray), but also using them in ways that pose significant risks to life and health;**
- **Attacks by informal criminal groups against demonstrators and media representatives;**
- **Targeted persecution of media representatives, in some cases leading to injuries and necessary hospitalization;**
- **Unlawful arrests under administrative offences (up to 500 individuals were affected by arbitrary arrests);**
- **Unlawful search of citizens in public places, Search and seizure operations in private residences/offices;**
- **Applying criminal law mechanisms against the demonstrators (up to 40 individuals are arrested);**
- **Threats against public servants – in addition to the physical violence, the Government attempts to suppress freedom of expression of public servants through direct or indirect threats regarding their dismissal and calls for their resignation;**
- **Amending the legislation to target individuals with different opinions, particularly, amendments have been made to the following Laws: the Law of Georgia on Public Service; the Law on Assemblies and Demonstrations; the Law on Police; the Administrative Offences Code.**

Considering the context, it is important to further outline those developments leading up to the mass protest on 28 November. The protest that started on 28 November marks the continuation of the wave of demonstrations that had been unfolding in the country since the reintroduction of the “Russian law” until now, including those related to the elections.

Since 28 May 2024, namely, since the Parliament of Georgia overcame the veto of the President of Georgia and adopted the Law on “Transparency of Foreign Influence” (the Russian Law¹⁵) initiated on 4 April 2024¹⁶, the protection of civil rights at the legislative level has

post/2dekemberigancxadeba, [27.12.2024]; The Public Defender, Public Defender Calls on Ministry of Internal Affairs not to Use Special Equipment against Participants in Peaceful Assembly, 02.12.2024, <https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsveli-moutsodebs-shss-s-ar-gamoiqenos-spetsialuri-sashualebebi-mshvidobiani-shekrebis-monatsileta-mimart>, [27.12.2024]; GYLA, On December 3-4, the sixth consecutive day of peaceful protests, the Ministry of Internal Affairs once again resorted to violent measures to disperse demonstrators, 04.12.2024, <https://gyla.ge/en/post/3-4-dekembris-darbevis-Sefaseba-GYLA>, [27.12.2024].

¹⁵ “The law mandates the creation of a discriminatory and stigmatizing registry for non-governmental and media organizations that receive more than 20% of their annual funding from foreign sources. Such organizations must be registered as ‘organizations pursuing the interest of a foreign power’ and submit relevant declarations. If they fail to fulfill the obligation to submit the registration and declaration, the law imposes severe financial sanctions, ultimately making it impossible for these organizations to function. [...] Similar legislation in Russia has already led to the termination of civil society organizations.” See: GYLA, Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill, 2024, 5; also, *Ecodefence and Others v. Russia*, no. 9988/13, 14.06.2022; *Kobaliya and others v. Russia*, no. 39446/16, 22.10.2024.

¹⁶ GYLA, Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill, 2024, 5, <https://gyla.ge/files/ადამიანის%20უფლებები%20რუსული%20კანონის%20ინისპირა.pdf>, [27.12.2024].

been significantly restricted. “The Russian Law” entered into force on 1 August 2024.¹⁷ The effects of the Law were neither suspended by the Constitutional Court.¹⁸ On 17 October 2024, the civil society organizations lodged an application on behalf of 140 applicants (16 media organizations, 120 civil society organizations, 4 individuals) to the European Court of Human Rights.¹⁹ The Application has already been registered.²⁰

The Parliament of Georgia, also, adopted the Law “on the Protection of Family Values and Minors”, which imposes various restrictions that undermine the right to equality, access to healthcare, right to private life, and the freedom of assembly and expression.²¹ Even more, the Law, with its content, introduces a constitutionally prohibited control mechanism - censorship. The law was published on 3 October and came into effect on 2 December of this year.²²

The Parliamentary Elections of Georgia on 26 October 2024 took place in an environment marked by significant violations, *inter alia*, massive violations of ballot secrecy,²³ largely characterized by inequality, violence, and tension,²⁴ which sparked protest within the pub-

¹⁷ Formula, The Russian Law came into force from today, 01.08.2024, <https://formulanews.ge/News/114970>, [27.12.2024].

The registry of organisations pursuing the interests of a foreign power has been established and it is available electronically on the website of the National Agency of Public Registry. The website allows users to access the financial documentation of these entity: <https://fitreg.napr.gov.ge/fitr/fitr-pub>, [27.12.2024]. *In addition, respective organizations are required to register in the mentioned registry and submit financial declarations; failure to comply will result in the imposition of fines. The Law of Georgia on Transparency of Foreign Influence, Articles 9-10.*

¹⁸ To assess the constitutionality of the law, on 18, 24, 31 July 2024 and 19 August 2024, the constitutional complaints were lodged by the President of Georgia, 38 Members of the Parliament of Georgia, the civil society and media organizations. On 29-31 August 2024, the preliminary hearing took place at the Constitutional Court, while about one month later, the Court published its Record Notice, indicating that while the case was declared admissible, however, the Court opted not to grant the claimants’ request to suspend the disputed provisions until a final decision was reached. See: The Recording Notice of the Constitutional Court of Georgia, 04.10.2024, regarding the case “The President of Georgia, Members of the Parliament of Georgia: Tamar Kordzaia, Ana Natsvlshvili, Levan Bezashvili and others (38 members), NNLE ‘The Institute for Development of Freedom of Information’, NNLE ‘Rights Georgia’, NNLE ‘Civil Society Foundation’ and others (122 complainants), LTD ‘Network of Information Centers’, NNLE ‘Studio Monitor’ v. The Parliament of Georgia”, N3/3/1828,1829,1834,1837.

¹⁹ GYLA, Legal battle against the “Russian law” to continue in Strasbourg, <https://www.gyla.ge/en/results/8418>, 17.10.2024, [27.12.2024];

²⁰ GYLA, The European Court of Human Rights registered the Application against the Russian Law, 13.11.2024, <https://www.facebook.com/photo/?fbid=981321547373201&set=a.485094683662559>, [27.12.2024].

It is noteworthy that 99% of the non-governmental organizations refuse to register as an agent. Mtavari Arkhi, 02.09.2024, <https://www.facebook.com/watch/?v=851021856744778>, [27.12.2024].

²¹ The Law of Georgia “on the Protection of Family Values and Minors”, 2024; GYLA, the Georgian Young Lawyers’ Association addresses the discriminatory legislative amendments that are against the human rights and democracy, iminatory, human rights and democracy, 20.09.2024, <https://gyla.ge/post/saqartvelos-akhalgazrda-iuristta-asociacia-diskriminaciul-adamianis-uflebebis-da-demokratiis-tsinaaghdem-mimartul-sakanonmdelblo-cvllilebebs-ekhmaureba> [27.12.2024].

²² The Law of Georgia “on the Protection of Family Values and Minors”, 2024, <https://matsne.gov.ge/ka/document/view/6283110>, [27.12.2024].

²³ In the Parliamentary Elections of 26 October 2024, it was revealed that the quality of the ballots could not prevent coloured marks from being left on the reverse side. GYLA, 29.10.2024, <https://www.facebook.com/GYLA.ge/videos/1097292615073077>, [27.12.2024].

“Georgian Dream” installed video cameras in the majority of polling stations, which in some cases faced the registrars’ tables and verification devices, and in others, the voting booths and main ballot box. GYLA, 28.10.2024, <https://www.facebook.com/GYLA.ge/videos/1072581891028234>, [27.12.2024].

Additionally, various episodes of secrecy violations were recorded, including instances where voting occurred alongside unauthorized accompanying persons. GYLA, 26.10.2024, <https://www.facebook.com/GYLA.ge/videos/1283197176372073>, [27.12.2024].

²⁴ GYLA, Assessment of the Parliamentary Election Voting Day on 26 October 2024, 27.10.2024, <https://gyla.ge/en/post/gancxadeba-27octomberi-11saati>, [27.12.2024].

lic.²⁵ Similar to the protests against the Russian Law in April-May 2024, the protests mentioned above were also disrupted by informal groups of unidentified individuals (so-called “Titushky”),²⁶ the instances of police violence also took place.²⁷ It is also noteworthy that the Instruction regarding management of protests has deteriorated.²⁸

Instead of responding appropriately, the State encourages violence against vulnerable groups, and a vivid example of this is the early release of those who assaulted journalists and cameramen on 5 July 2021.²⁹ In addition, during the October-November 2024 protests, there were multiple instances of violence against journalists and deliberate interference with their professional activities by both informal groups (“titushky”) and law enforcement officers. Particularly, the police not only used water cannons and broke cameras,³⁰ but also assaulted and arrested journalists and cameramen.³¹

The ineffectiveness of the investigations into the episodes of violence during the current protests, as well as those in April-May 2024 and March 2023, remains a significant challenge. Specifically, no accountability has been placed on the law enforcement officers responsible for the violence. Additionally, monitoring of the criminal cases against participants of the demonstrations reveals that court hearings are being held at long intervals, seemingly based on the presumption to hinder President Salome Zourabichvili to exercise her presidential powers to pardon activists.³²

²⁵ Civil.ge, “Reclaim Your Vote” Rally in Tbilisi, Opposition Sets Up Tents Near Tbilisi State University, <https://civil.ge/archives/636018>, 17.11.2024, [27.12.2024].

²⁶ TV Pirveli, “‘Titushky’ were sent to us - Students claim they were physically assaulted at dawn at TSU”, 22.11.2024, https://tvpirveli.ge/ka/siaxleebi/sazogadoeba/86547-titushkebi-mogvigzavnes-studentebi-amtkitseben-rom-gam-teniisas-tsu-shi-pizikurad?fbclid=IwY2xjawGxOMRleHRuA2FlbQIxMQABHVDV4QQS_B3f7SpyJdX9Nu71xJv4FOrD-63v9HE4e68lhWShKeVnsPdAEMA_aem_1AoRrybwDyDZ2ZjLbwpMaQ, [27.12.2024].

²⁷ Formula, 19.11.2024, <https://www.facebook.com/watch/?v=911716597690977>, [27.12.2024].

²⁸ On 30 December 2015 by Order N1002, the Minister of Internal Affairs of Georgia approved guidelines for the behavior of Ministry of Internal Affairs personnel during assemblies and demonstrations. On 11 July 2021, a new Order N1002 was adopted, which weakened the previous standards for managing assemblies and demonstrations.

²⁹ GYLA, Those who assaulted journalist and cameramen on 5 July 2021 were released early, 20.11.2024, <https://gyla.ge/post/Gyla-5-ivlisis-saqme>, [27.12.2024].

³⁰ GYLA, the Statement, 02.12.2024, <https://www.facebook.com/photo/?fbid=994618546043501&set=a.485094690329225>, [27.12.2024].

³¹ Mediachecker, Over 50 journalists injured while covering the pro-European protests, <https://www.mediachecker.ge/ka/mediagaremo/article/99134-proevropuli-aqciebis-gashuqebisas-50-ze-meti-zhurnalisti-dashavda>, 02.12.2024, [27.12.2024].

³² GYLA, Court Postpones Hearings on Criminal Cases of Participants in “Russian Law” Protests, 24.11.2024, <https://gyla.ge/en/post/rusuli-kanonis-saprotesto-aqciis-monawileta-sasamrtlo-chianurdeba>, [27.12.2024].

1. THE UNLAWFUL DECISIONS ON THE DISPERSAL OF THE RALLY

Since 28 November, prior to using force against the peaceful demonstrators by the State, generally, **the Ministry of Internal Affairs often issued a false statement** that the rally exceeded the requirements of the Law of Georgia on Assemblies and Demonstrations and became entirely violent.³³ The fact that this statement is false is also confirmed by the **assessment of the OSCE**, according to which: **“[...] the overwhelming majority of demonstrators were peaceful”**. According to the case-law of the European Court of Human Rights (ECtHR), when the majority of the rally participants are peaceful, no fact can render the assembly unpeaceful and, therefore, the dispersal of the whole rally and peaceful demonstrators cannot be justified.³⁴ Hence, in **absolutely every situation during previous one month when the police forces started the dispersal of the whole rally, it was unlawful. Particularly:**

- **On the night of 28-29 November 2024;**
- **On the night of 29-30 November 2024;**
- **On the Night of 30 November-1 December 2024;**
- **On the night of 1-2 December 2024;**
- **On the night of 2-3 December 2024;**
- **On the night of 3-4 December 2024;**
- **On the night of 6-7 December 2024;**

Furthermore, until 28 November, protests were held periodically at various locations in the aftermath of the 26 October elections to protest significant and systemic violations, including violations of voter secrecy, and with a demand to hold new elections. The state responded with violent methods against these peaceful demonstrations. Mainly, from the evening of 17 November to the morning of 19 November, a continuous protest took place at the intersection of Varaziskhevi and Chavchavadze avenues near the first building of Tbilisi State University. During this time, participants and organizers set up temporary constructions and peacefully called for new elections.

- **There was no ground for dispersing the rally on 19 November 2024. The rally was peaceful and within the framework of the freedom of assembly.** More particularly, on the morning of 19 November, law enforcement officers instructed the participants to vacate the area around Chavchavadze Avenue and Varazikhevi and to cease gathering on the roadway. Afterwards, the law enforcement officers took the participants of the rally from the mentioned territory and cleared the surrounding space from inventory.³⁵ The protest, considering its scale, resulted in road blockage and the temporary constructions and the majority of inventory (tents, tables, heaters) were necessary for sheltering participants in the cold weather, since they were outside all night in cold weather conditions. When the demonstration does not have a violent character, the State shall have a degree of tolerance to a disruption

³³ GYLA, The statement of the Ministry of Internal Affairs (00:37) claiming that the rally completely exceeded the requirements of the Law on Assemblies and Manifestations and became entirely violent is false, 01.12.2024, <https://gyla.ge/en/post/gancxadeba-shinagansaqmetasaministrosgancxadebaze> [27.12.2024].

³⁴ *Frumkin v. Russia*, no. 74568/12, 05.01.2026.

³⁵ GYLA, 19.11.2024,

<https://www.facebook.com/photo?fbid=985351203636902&set=a.485094683662559>, [27.12.2024].

caused by the demonstration, including disruption of traffic.³⁶ **It is important to note that, depending on the location of the rally, alternative routes were available for vehicles despite the street blockages.**

- **On the morning of 20 November 2024, the law enforcement officers again dispersed the rally without any grounds.** After the rally participants returned to the first building of TSU on the evening of 19 November,³⁷ on the morning of 20 November, the MIA called on the organizers and participants of the rally to clear up the traffic roadway and gave them a 15-minute period for that³⁸. Following this, the participants of the rally left the territory and moved to the Melikishvili Avenue, where the rally was concluded.³⁹

³⁶ *Kudrevičius and Others v. Lithuania* [GC], no. 37553/05, §155, 15.10.2015.

³⁷ AP, Demonstrators return to Tbilisi protest after police in Georgia dismantle camp, 20.11.2024, <https://www.youtube.com/watch?v=0BjR8cr04fY>, [27.12.2024].

³⁸ The Statement of the MIA, 20.11.2024, <https://police.ge/en/shinagan-saqmeta-saministros-gantskhadeba/16465>, [27.12.2024].

³⁹ RFE/RL's Georgian Service, Police Again Force Georgian Protesters Out Of Tbilisi University, 20.11.2024, <https://www.rferl.org/a/tbilisi-protests-suspended-/33208977.html>, [27.12.2024].

2. THE MEANS APPLIED TO DISPERSE THE RALLIES ARE NOT ONLY DISPROPORTIONATE, BUT, THROUGH THEIR CONTENT, ALSO CONSTITUTE AN ORGANIZED CRIME

2.1. The absolute right of peaceful demonstrators, journalists and detainees is violated - prohibition of torture, inhuman and degrading treatment

Since 28 November 2024, the scale and coordination of the violence confirm that a criminal operation against the civil engagement is taking place.⁴⁰ Particularly, torture, inhuman and degrading treatment have become widespread, systematic, and large-scale, affecting both rally participants and journalists.⁴¹ Physical and verbal abuse of detainees has become widespread, taking place in nearly all cases.⁴² The violence occurs not only against detainees, but, also, against individuals who are nearly unconscious and in need of medical assistance.⁴³ Absolute majority of the 500 detainees were subjected to physical violence along with psychological pressure and verbal assault.⁴⁴

According to the assessments of the Public Defender: *“[Citizens detained and injured during the protests] have serious injuries to the face, eyes, and head, which practically excludes the probability that the police each time used the necessary, proportionate force against them. The location, nature and degree of the injuries create a credible impression that the police are using violent methods against citizens for the purpose of punishment. Intentional, severe violence for the purpose of punishment constitutes an act of torture.”*⁴⁵

According to the detainees, they were subjected to violence by law enforcement officers both during and after their arrest. During their transportation, in the police vans, they were beaten by several special forces officers.⁴⁶ In addition to the beating, officers spat on the detainees, verbally abused them, and threatened to rape them.⁴⁷ The special forces took off the shoes of the detainees, leaving many barefoot upon arrival at medical facilities.⁴⁸ They also confiscated their mobile phones and demanded that they unlock them.⁴⁹ In some instances, the violence against detainees continued even inside the [police] stations.⁵⁰ One detainee reported that officers attempted to force him to confess a crime through physical violence.⁵¹

⁴⁰ GYLA, 10 Days of Terror Against the Peaceful Protest, 08.12.2024, <https://gyla.ge/en/post/terroris10dge>, [27.12.2024].

⁴¹ *ibid.*

⁴² <https://www.facebook.com/reel/624882676528176>, [27.12.2024];

<https://www.facebook.com/reel/604048285301413>, [27.12.2024].

⁴³ TV Pirveli, The Special Forces brutally assault the youth, 30.11.2024,

<https://www.facebook.com/tvpirveli.ge/videos/598032512785906>, [27.12.2024].

⁴⁴ Statement of the Legal Aid Network of Non-Governmental Organizations Regarding Detainees, 01.12.2024,

<https://gyla.ge/en/post/arasamtavrobo-organizaciebis-qselis-gancxadeba-dakavebulebze>, [27.12.2024].

⁴⁵ Public Defender’s Statement, 03.12.2024, <https://www.ombudsman.ge/eng/akhali-ambebi/241203081257sakha-lkho-damtsvelis-gantskhadeba>, [27.12.2024].

⁴⁶ GYLA, Detained citizens are subjected to inhumane and degrading treatment!, 02.12.2024,

<https://gyla.ge/en/post/dakavebulebi-sastikad-nacemia>, [27.12.2024].

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ *ibid.*

⁵⁰ Publika, Lawyer: Zura Datunashvili was subjected to violence during and after his arrest, 05.12.2024, <https://publika.ge/advokati-zura-datunashvili-dakavebis-dros-da-shemdeg-izolatorshi-masze-idzalades/>, [27.12.2024].

⁵¹ Netgazeti, Until now the demonstrators had been beaten during their arrest and in the car, now, also, in the detention department – lawyer, 05.12.2024, <https://netgazeti.ge/news/755077/>, [27.12.2024].

Tendencies in the use of violence and ill-treatment:⁵²

- *The police used excessive force not only against some individuals, but against all participants of the assembly, regardless of their peaceful nature.*
- *The police violently treated those demonstrators who posed no resistance, including beating them with fists, feet and rubber batons, even while they were lying on the ground.*
- *According to the detailed statements of the victims of ill-treatment, the police officers continued to ill-treat them in the police vans. Demonstrators were beaten, including in their face, head, ribs, while so-called supervising officers reportedly instructed their subordinates where and for how long to continue beating.*
- *Police officers involved in the arrest and subsequent violent actions did not have insignia, such as badge numbers or name tags. This lack of identification created a sense of impunity for police officers who subjected people to ill-treatment.*
- *Unknown individuals, who were severely attacking journalists, participants of the protests and other persons, acted with either the direct or implicit approval of law enforcement officials. Television footage clearly shows the coordination between these unidentified individuals and the police, as well as the inaction of law enforcement officers during the violent attacks carried out by these individuals.*

2.2. The practice of using special means reaches the threshold of inhuman treatment

From 28 November 2024, during the all dispersals of the rallies, the special forces used tear gas and water cannons without grounds, also, simultaneously, and in disregard of the safety rules⁵³ for their deployment.⁵⁴ Tear gas canisters were fired in large quantities and in areas where people were closely standing, posing a real risk of direct injury. The canisters were also thrown from the rooftops of the buildings, among them, several citizens stated that the canisters were thrown from the roof of the Rustaveli National Theatre. Furthermore, the cold-water cannons are also used disproportionately in the cold temperature.⁵⁵

⁵² Apart from national and international NGOs, The assessments of the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the United Nations High Commissioner for Human Rights and the Council of Europe Commissioner for Human Rights point to the excessive use of force by the police while dispersing the peaceful rally. See: Troika, OSCE Chairpersonship, Statement by the OSCE Troika on the Situation in Georgia, 13.12.2024, <https://www.osce.org/chairpersonship/583315>, [27.12.2024]; Office of the High Commissioner for Human Rights, Türk calls on Georgian authorities to protect freedoms of expression and assembly amid violence, 02.12.2024, <https://www.ohchr.org/en/press-releases/2024/12/turk-calls-georgian-authorities-protect-freedoms-expression-and-assembly>, [27.12.2024]; CoE, Commissioner for Human Rights, Georgian authorities must fulfil their obligation to uphold the right of peaceful assembly, 04.12.2024, <https://www.coe.int/en/web/commissioner/-/georgian-authorities-must-fulfil-their-obligation-to-uphold-the-right-of-peaceful-assembly>, [27.12.2024].

⁵³ The use of such means of dispersal, water cannon and tear gas, requires a high standard of justification. A clear set of rules must be adopted concerning the implementation of the directive regulating the use of tear gas, and a system must be in place that guarantees adequate training of law enforcement personnel and control and supervision of that personnel during demonstrations, as well the necessity, proportionality and reasonableness of any use of force must be assessed, especially against people who do not put up violent resistance. *İzci v. Turkey*, no. 42606/05, 23.07.2013.

⁵⁴ GYLA, Throughout the night, riot police repeatedly used special forces against peaceful demonstrators in over a dozen incidents, employing water cannons and tear gas, 02.12.2024, <https://gyla.ge/en/post/2dekemberiganxadeba> [27.12.2024]

⁵⁵ GYLA, The ongoing protest on Rustaveli Avenue is being dispersed with unlawful and disproportionate use of force, 29.11.2024, <https://gyla.ge/en/post/%20Darebva-kvlav-araprprciuli-zaliat-da-ukanonod-mimdinareobs>, [27.12.2024]

The MIA mixed water cannons with a chemical irritant,⁵⁶ which causes even more damage.⁵⁷ Numerous demonstrators reported severe health effects caused by the special means. Despite the calls from GYLA to the MIA to disclose the information regarding the used means, so that at least medical personnel can duly treat the victims, the MIA continues applying undisclosed chemical substances against the peaceful demonstrators.⁵⁸

In addition to special means, from 28 November 2024, **the special force units started using the encirclement tactics**, employing special means against the demonstrators from different directions, accompanied by violence and arrests.⁵⁹ According to the European Court of Human Rights, such action can only be used when it is proportionate,⁶⁰ while in other cases, where other special means are used, similar tactics pose a disproportionate risk of injury or other harm to the demonstrators.⁶¹ Taking into consideration that the special forces had been already employing other special means, such tactics not only violate the right to peaceful assembly but also serve **as a tool of psychological terror against the demonstrators.**

Tendencies:

- *The use of tear gas, water cannons and pepper spray, either separately or in combination, was unlawful and disproportionate, especially against peaceful demonstrators.*
- *During the use of tear gas canister, it was revealed that the law enforcement officers violated the protocols of their usage. In some instances, instead of launching the grenades into the air with a ballistic trajectory, they were aimed directly at the demonstrators, resulting in severe injuries.*⁶²
- *The use of unlawful encirclement tactics.*

⁵⁶ *ibid.*

⁵⁷ Chemical Irritants in Law Enforcement An Amnesty International Position Paper, 2021.

⁵⁸ GYLA, On December 3-4, the sixth consecutive day of peaceful protests, the Ministry of Internal Affairs once again resorted to violent measures to disperse demonstrators, 04.12.2024, <https://gyla.ge/en/post/3-4-dekembris-darbevis-Sefaseba-GYLA>, [27.12.2024]

⁵⁹ GYLA, On December 3-4, the sixth consecutive day of peaceful protests, the Ministry of Internal Affairs once again resorted to violent measures to disperse demonstrators, 04.12.2024, <https://www.facebook.com/GYLA.ge/posts/pfbid033rhvuFK2pDc6dgp1zqdtH1e4wXjziStPnip3xbV4SjaoBtMjiHJxjghVViAkdYY4I>, [27.12.2024]

⁶⁰ General comment No. 37 (2020) on the right of peaceful assembly. 2020.

⁶¹ *Austin and Others v. the United Kingdom*, nos. 39692/09, 40713/09 and 41008/09, 15.03.2012.

⁶² During the 3 December rally, 22-year-old Aleks Tirkia was injured, who was allegedly hit in the face by a gas canister fired by the special forces. He was admitted to the hospital with an open wound of the scalp, a fracture of the frontal bone and eye-socket, as well as a haemorrhage in the membranes of the brain. He underwent an operation immediately after being admitted to the Ingorokva Hospital and was in the intensive care unit since. On 10 December, the information was disseminated that he was awakened from an induced coma, and he left the hospital on 19 December. See.: Netgazeti, Aleks Tirkia has been awakened from an induced coma, however, he remains in the intensive care unit, 10.12.2024, <https://netgazeti.ge/news/755684/>, [27.12.2024], Interpressnews, Aleks Tirkia, 22, who was injured during the protests, left the hospital, 20.12.2024, <https://www.interpressnews.ge/ka/article/825538-akciaze-dashavebuli-22-clis-aleksandre-tirkia-klinikidan-gaceres/>, [27.12.2024].

3. DETERIORATION OF THE LEGISLATIVE FRAMEWORK REGARDING THE DISPERSAL OF RALLIES

On 24 October 2024, the Minister of Internal Affairs of Georgia and his Deputy announced in their interviews that on 11 July 2021 a new Instruction for the conduct of Internal Affairs officers during assemblies and demonstrations had been adopted leading to the revocation of Order N1002 of MIA dated to 30 December 2015.⁶³

According to the requested public information,⁶⁴ the Order N1002 of the Minister of Internal Affairs is still in force; however, it had been amended, resulting in the deterioration of the standards of the management of assemblies and demonstrations. It is noteworthy that this Order is not publicly available, and the access to its text is only possible as a result of public information requests, which prevents real-time monitoring of the text of the Order, therefore, violating the principle of publicity of legislative acts. The following subchapters provide the amendments that have been made to the Order.

Mixing water cannons with tear gas

According to Article 9(1(p)) of the previous edition of the Instruction, adopted by the Order N1002 of 30 December 2015 of the Minister of Internal Affairs, **“the simultaneous or parallel use of water cannon, rubber bullets and tear gas against participants of assembly/demonstration” was prohibited. This prohibition has been removed in the current edition of the Instruction.**

During the period of April-May 2024, at the time of the protests against the Russian Law, the Ministry of Internal Affairs simultaneously used active special means,⁶⁵ including water cannons and tear gas.⁶⁶ **It is noteworthy that on 21 October 2024, the MIA confirmed with a statement the during the protests against the Russian Law, water cannons were mixed with tear gas.**⁶⁷ In order to support this practice, the Ministry wrongly, misleadingly cited the guideline of the “Amnesty International”.⁶⁸ **In reality, according to the “Amnesty Inter-**

⁶³ Publika, As stated by Gomelaury, In 2021 the simultaneous use of water cannons and tear gas during the dispersal of the rally was allowed, 24.10.2024, <https://publika.ge/gomelauryis-2021-wels-dsashvebi-gakhada-aqciis-dashlisas-wylis-chavlisva-da-cremlndeni-gazis-ertdroulad-gamoyeneba/>, [27.12.2024]; Tabula, Darakhvelidze: we use water cannons and tear gas sumultaneously so that the violent demonstrators leave the rally safely, 24.10.2024, <https://tabula.ge/ge/news/724740-darakhvelidze-chavls-gazs-ertad-viqenebt-rom>, [27.12.2024].

⁶⁴ Letter 8 24 03311612 of the Ministry of Internal Affairs of Georgia, 30.10.2024.

⁶⁵ GYLA, Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill, 2024, 13, https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%90%E1%83%93%E1%83%90%E1%83%9B%E1%83%98%E1%83%90%E1%83%9C%E1%83%98%E1%83%A1%20%E1%83%A3%E1%83%A4%E1%83%A9%E1%83%94%E1%83%91%E1%83%94%E1%83%91%E1%83%98%20%E1%83%A0%E1%83%A3%E1%83%A1%E1%83%A3%E1%83%A9%E1%83%98%20%E1%83%99%E1%83%90%E1%83%9C%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A1%20%E1%83%9E%E1%83%98%E1%83%A0%E1%83%98%E1%83%A1%E1%83%9E%E1%83%98%E1%83%A0.pdf_01722589845.pdf, [27.12.2024].

⁶⁶ *ibid.*

⁶⁷ The Statement of the MIA, 21.10.2024,

<https://police.ge/en/shinagan-saqmeta-saministros-gantskhadeba/16444>, [27.12.2024].

⁶⁸ GYLA, GYLA responds to the Ministry of Internal Affairs’ statement of October 21, 2024, regarding the mixing of tear gas in water cannons, 21.10.2024, <https://www.gyla.ge/en/post/saia-Shinagan-saqmeta-saministros-gancxadebaze-21octomberi>, [27.12.2024].

national”, the use of water cannons with chemicals or paint shall be prohibited.⁶⁹ Such practice is significantly problematic for following reasons, particularly:

- There is no information available as to an acceptable concentration of chemical irritants in the water, which presents a significant risk for people’s health.⁷⁰
- Chemical irritants are supposed to make people disperse from the specific territory. When their clothing is soaked with the irritant, they cannot escape from it.⁷¹
- In addition, when people’s clothing is soaked with a chemical irritant, neither the quantity nor the length of exposure can be controlled.⁷² Considering that the risks involved for the health of people affected by tear gas increase with higher concentrations and prolonged exposure, the combination of chemical irritants with water violates the duty of law enforcement agencies to minimize harm.⁷³
- Mixing water cannons with irritants is also considered non-recommendable practice by the Resource book of the UN High Commissioner for Human Rights, as water mixed with chemicals bears a much greater risk of causing harm including physical pain.⁷⁴

Therefore, by removing this prohibition from the instruction approved by the Order N1002 of the Minister of Internal Affairs, the standards for managing assemblies have significantly deteriorated.

Security Plan

Article 5 of the Instruction imposes an obligation to develop a security plan during the assembly and demonstration. Under the edition in force currently, such plan shall be developed when the following conditions **are present cumulatively**: “when there is the need for special measures, the need for using active special means, and when the involvement of the MIA Special Tasks Department is necessary”. The former edition did not consider this requirement for the plan’s development.

⁶⁹ Amnesty International, CHEMICAL IRRITANTS IN LAW ENFORCEMENT AN AMNESTY INTERNATIONAL POSITION PAPER, 2021, 20, <https://www.amnesty.nl/content/uploads/2021/07/Amnesty-position-paper-chemical-irritants.pdf>, [27.12.2024].

⁷⁰ *ibid.*

⁷¹ *ibid.*

⁷² *ibid.*

⁷³ *ibid.*

⁷⁴ UNODC, OHCHR, Resource book on the use of force and firearms in law enforcement, 2017, 90, <https://www.ohchr.org/sites/default/files/UseOfForceAndFirearms.pdf>, [27.12.2024].

The current edition of Article 5(1) of the Instruction:

“Generally, a security plan is developed during the assembly/demonstration when there is the need for special measures, the need for using active special means, and when the involvement of the MIA Special Tasks Department is necessary. In case of a spontaneous assembly/demonstration the security plan is developed within the reasonable time after the spontaneous assembly/demonstration is commenced. The security plan is developed by the MIA Special Tasks Department, in coordination with relevant units of the Ministry.”

The former edition of Article 5(1) of the Instruction:

“Generally, a security plan is developed during the assembly/demonstration, and in case of a spontaneous assembly/demonstration the security plan is developed within the reasonable time after the spontaneous assembly/demonstration is commenced.”

Under the current regulation, the action plan shall be developed once the need for special measures, the use of active special means, and the involvement of the STD arise. In these circumstances, due to, at least, time constraints, it may not be possible to comprehensively develop the plan, which shall ensure the safe management of the rally. Furthermore, **in cases when the use of special means might become necessary, even in accordance with the legislation, the steps are taken in a short period of time, even in the matter of seconds, therefore, it becomes clear that the development of this plan will have *post factum* effect, and it can no longer be considered as *pre factum* action plan.**

In addition, according to Article 5(3(f)) of the Instruction, ***the action plan should have reflected the data “about the alternative options of action in case of unforeseen situation”.*** ***The current edition fully omits this requirement.***

The former edition of the Instruction also included the obligation that the security plan reflected the data “about the existing risks”, and “about the stationary and medical aid points”.⁷⁵ ***The current edition no longer includes these requirements.*** Instead of them, it introduces broader and more vague criteria, stating that the action plan shall include “a brief description of the existing situation” and “issues of medical assistance”.⁷⁶

There are some minor positive amendments to the action plan in the new edition, such as the addition of a requirement to outline the legal basis, as well as the purpose and objectives of the measures,⁷⁷ however, **considering the other amendments mentioned above, the overall standard for developing a security action plan *has undoubtedly deteriorated.***

⁷⁵ Article 5(3(e) and (j)) of the Former Edition of “the Instruction of the Conduct of the Personnel of the Ministry of Internal Affairs during the Assemblies and Demonstrations” adopted with the Order N1002 of 30 December 2015 of the Minsiter of Internal Affairs.

⁷⁶ Article 5(4(e) and (f)) of the Current Edition of “the Instruction of the Conduct of the Personnel of the Ministry of Internal Affairs during the Assemblies and Demonstrations” adopted with the Order N1002 of 30 December 2015 of the Minsiter of Internal Affairs.

⁷⁷ Article 5(4(d) and (f)) of the Current Edition of “the Instruction of the Conduct of the Personnel of the Ministry of Internal Affairs during the Assemblies and Demonstrations” adopted with the Order N1002 of 30 December 2015 of the Minsiter of Internal Affairs.

Other issues related to the use of special means

According to Article 8(1(g)) of the former edition of the Instruction, a responsible person from the Ministry made a decision regarding using tear gas, pepper gas spray and hand canisters in consultation with the Minister of Internal affairs. ***The requirement to consult with the Minister has been removed from the current edition.***

The provision prohibiting the detonation of flashbangs, stun grenades in close proximity to a person's body has been removed.⁷⁸

Stun grenades (flashbangs, stun grenades) are explosive devices that can be either hand-thrown or weapon-launched and which upon detonation emit extremely loud noise and/or bright flash(es) of light.⁷⁹

- Its purpose is to disorientate people.⁸⁰
- When they explode, stun grenades can release shrapnel and fragments with sufficient energy to cause serious injury, or even death.⁸¹
- It can also cause burns, hearing damage, eye injuries and psychological trauma.⁸²

According to the Guidance on Less-Lethal Weapons, based on the above-mentioned reasons, the use of pyrotechnic flashbang grenades directly against a person shall be considered unlawful.⁸³

Therefore, the removal of prohibition on detonating this device in close proximity to a person's body significantly deteriorates the standards of its use.

Banning Masks during Assemblies

On 8 December 2024, Irakli Kobakhidze stated that it was planned to adopt a law that would “prohibit the covering of faces through various means by participants of the demonstrations, including counter-demonstrations.”⁸⁴ According to him, the purpose of the law is to prevent violence.⁸⁵

Firstly, it should be noted that the vast majority of the demonstrators participating in the

⁷⁸ This prohibition was prescribed under Article 9(1(e)) of the Former Edition of “the Instruction of the Conduct of the Personnel of the Ministry of Internal Affairs during the Assemblies and Demonstrations” adopted with the Order N1002 of 30 December 2015 of the Minister of Internal Affairs.

⁷⁹ OSCE/ODIHR, Guide on Law Enforcement Equipment Most Commonly Used in the Policing of Assemblies, 2021, 68, https://www.osce.org/files/f/documents/4/7/491551_0.pdf, [27.12.2024].

⁸⁰ *ibid.*

⁸¹ *ibid.*, 69-70.

⁸² *ibid.*

⁸³ OHCHR, UNITED NATIONS HUMAN RIGHTS GUIDANCE ON LESS-LETHAL WEAPONS IN LAW ENFORCEMENT, 2020, 22, https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf, [27.12.2024].

⁸⁴ IPN, Irakli Kobakhidze - We will adopt a law that will prohibit the participants of the demonstrations from covering their faces by various means, the law will be fully in force by the end of the month, 08.12.2024, 08.12.2024, <https://www.interpressnews.ge/ka/article/823937-irakli-kobaxize-mivigebt-kanons-romlitac-aikrzaleba-shekrebis-monacileebis-mier-sxvadasxva-sashualebit-saxis-daparva-kanoni-tvis-bolomde-srulad-amokmeddeba/>, [27.12.2024]

⁸⁵ *ibid.*

ongoing protests are peaceful.⁸⁶ This is confirmed by the assessments of the **OSCE**⁸⁷ and **the Council of Europe Commissioner for Human Rights**⁸⁸. While the criminal, masked groups, referred to by Irakli Kobakhidze as participants of the “counter-demonstration”⁸⁹, are people having ties with the Government, and acting with the consent/support of the Government, which is also suggested by the inaction of the police during their violent actions.⁹⁰ This is also confirmed by the international human rights organization, **Amnesty International**, in their assessments.⁹¹

With regards to the banning of masks: the mentioned initiative, which was adopted through its third reading on 13 December, represents another step taken against human rights, with a purpose to simplify application of repressive measures against the participants of the peaceful protest. According to the amendments, covering the face with a mask or any other means will be considered an administrative offence, punishable by a fine of 2 000 GEL.

Taking into consideration *the retaliation of the participants of the demonstrations*,⁹² *the attack on them by criminal groups, the unlawful arrests by the law enforcement officers, including, their forced transportation from their homes and offices, and threats against public servants*,⁹³ *it is natural that the participants of the peaceful protest are trying to cover their identity while being at the demonstrations in order to avoid unlawful, repressive retaliation, as well as, protect themselves from chemical irritants, whose composition has not been yet disclosed by the MIA, and which is used by the MIA unlawfully and disproportionately.*

Given these circumstances, a blanket ban on wearing masks during the assemblies and demonstrations violates the freedom of assembly, as well as, freedom of expression, and contradicts the Constitution of Georgia and International Human Rights Treaties applicable for Georgia.

As for the detailed analysis of the amendments, it is noteworthy that the Venice Commission, regarding to similar legal regulations in **Russia**, stated that a blanket ban on wearing any kind of mask at a peaceful assembly represents a disproportionate restriction of freedom of assembly.⁹⁴ According to the Venice Commission and OSCE/ODIHR, there shall be no

⁸⁶ *ibid.*; see, also: OSCE human rights office condemns use of excessive force by police during protests in Georgia, 30.11.2024, https://www.osce.org/odihr/581962?fbclid=IwY2xjawHCHQNleHRuA2FibQlxMQABHQR9I-heQTVJCFJ3oLK1xeP8PAfXi3iaEjQgzCmSJ_XIMYIOIstC5tLMPHg_aem_XXvlpTvRDJK4xQh5nHi8A, [27.12.2024].

⁸⁷ OSCE human rights office condemns use of excessive force by police during protests in Georgia, 30.11.2024, <https://www.osce.org/odihr/581962>, [27.12.2024].

⁸⁸ CoE, Commissioner for Human Rights, Georgian authorities must fulfil their obligation to uphold the right of peaceful assembly, 04.12.2024, <https://www.coe.int/en/web/tbilisi/-/georgian-authorities-must-fulfil-their-obligation-to-uphold-the-right-of-peaceful-assembly>, [27.12.2024].

⁸⁹ IPN, Irakli Kobakhidze - We will adopt a law that will prohibit the participants of the demonstrations from covering their faces by various means, the law will be fully in force by the end of the month, 08.12.2024, 08.12.2024, <https://www.interpressnews.ge/ka/article/823937-irakli-kobaxize-mivigebt-kanons-romlitac-aikrzaleba-shekrebis-monacileebis-mier-sxvadasxva-sashualebit-saxis-daparva-kanoni-tvis-bolomde-srulad-amokmeddeba/>, [27.12.2024]

⁹⁰ GYLA, Informal punitive groups operate with the tacit support or direct consent of state institutions and high-ranking officials, 08.12.2024, <https://gyla.ge/en/post/araformaluri-sadamsjelo-jgufebi-gyla-ganckhadeba/>, [27.12.2024].

⁹¹ Amnesty International, Georgia: Police committing shocking human rights violations amid ongoing crackdown on protesters, 13.12.2024, <https://www.amnesty.org/en/latest/news/2024/12/georgia-police-committing-shocking-human-rights-violations-amid-ongoing-crackdown-on-protesters/>, [27.12.2024].

⁹² For further information regarding the repressive mechanisms used by the State against the protests, see: GYLA, 10 Days of Terror Against the Peaceful Protest, 08.12.2024, <https://gyla.ge/en/post/terrororis10dge> [27.12.2024].

⁹³ *ibid.*

⁹⁴ EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) OPINION ON FEDERAL LAW

blanket or routine restrictions on the wearing of masks.⁹⁵

- **Wearing of masks and face coverings at assemblies for expressive purposes is a form of expression and communication protected by the rights to freedom of speech and assembly.**⁹⁶
- **Wearing the masks can be connected with other legitimate aims, for example, it can serve as a protection for further retaliation.**⁹⁷
- **Wearing of masks at an assembly should not be prohibited where there is no demonstrable evidence of imminent violence.**⁹⁸
- **An individual should not be required to remove a mask unless his/her conduct creates probable cause for arrest.**⁹⁹

According to the Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, such restriction is often used in order to target specific groups and unjustly restrict their freedom to assembly.¹⁰⁰ According to the Special Rapporteur, there may be legitimate and non-criminal reasons for wearing a mask during a demonstration, including fear of retribution on the basis for their participation in the demonstration.¹⁰¹

Such blanket prohibition contradicts the case-law of **the European Court of Human Rights**. The European Court of Human Rights in the case of *Ibragimova v. Russia* found a violation of Article 10 (Freedom of expression) read in light of Article 11 (Freedom of assembly), as the national authorities imposed blanket administrative responsibility on an individual for wearing mask while organizing a solo demonstration, without considering the specific circumstances of the case.¹⁰² Therefore, the legislative amendments clearly contradict international standards.

This initiative is particularly cynical, as the Ministry of Internal Affairs, in violation of international standards¹⁰³, fails to ensure that members of the special task forces have distinctive insignia, resulting in their impunity and perpetuating the violence.

Hence, it is clear that through this amendment, the “Georgian Dream” attempts to make people further vulnerable to the very terror it aims to establish, in order to suppress legitimate and peaceful protest.

NO. 65-FZ OF 8 JUNE 2012 OF THE RUSSIAN FEDERATION, Opinion no. 686/2012, CDL-AD(2013)003, 11 March 2013, par. 28, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)003-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)003-e), [27.12.2024].

⁹⁵ EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) OSCE OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (OSCE/ODIHR) GUIDELINES ON FREEDOM OF PEACEFUL ASSEMBLY (3rd EDITION), CDL-AD(2019)017rev, 15 July 2020, par. 153.

⁹⁶ *ibid.*

⁹⁷ *ibid.*

⁹⁸ *ibid.*

⁹⁹ *ibid.*

¹⁰⁰ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/26/29, 14 April 2014, <https://documents.un.org/doc/undoc/gen/g14/134/75/pdf/g1413475.pdf>, [27.12.2024].

¹⁰¹ *ibid.*

¹⁰² *Ibragimova v. Russia*, no. 68537/13, 30.08.2022.

¹⁰³ *Tsaava and Others v. Georgia*, no. 13186/20, 07.05.2024, par. 223.

Amendments to the Law on Police

The amendments of the Law “on Police”¹⁰⁴ introduce the possibility of appointing individuals to police ranks without a competition. The specific procedures and conditions for such appointments will be determined by an order of the Minister.¹⁰⁵

These amendments aim to address the specific needs of paramilitary police units, where individuals with military ranks currently serve. Starting on 1 January 2025, military service will only remain under the auspices of the Ministry of Defence, which, by definition, requires the establishment of special rules for filling certain positions. Despite the above-mentioned information, the draft law does not limit this amendment to the paramilitary units and grants the Minister broad authority to apply the non-competitive appointment process to any structural unit. This creates risk that this provision will be used for the purposes of the politicization of the police.¹⁰⁶

These amendments may be used to simplify the staffing of the police with personnel aligned with the government’s violent policy.¹⁰⁷

¹⁰⁴ The Draft Law “on the amendments to the Law on Police”, <https://info.parliament.ge/#law-drafting/29790>, [27.12.2024].

¹⁰⁵ GYLA, the “Georgian Dream” is trying to make undemocratic and repressive amendments to the legislation, 12.12.2024, <https://gyla.ge/en/post/represiuli-sakanonmdeblo-cvilebebi-gyla>, [27.12.2024].

¹⁰⁶ *ibid.*

¹⁰⁷ *ibid.*

4. THE PURPOSE OF ALL ACTIONS TAKEN AGAINST MEDIA REPRESENTATIVES IS TO SUPPRESS THE FUNCTIONING OF THE MEDIA, INCLUDING, TO PREVENT THE DISSEMINATION OF PHOTO/VIDEO/AUDIO COVERAGE OF CRIMES

During the dispersals of rallies from 28 November 2024, a key target has become the media. Since the beginning of the protest, 91 incidents of interference with journalists' professional activities, equipment damage, excessive use of force, and violence have been reported, the overwhelming majority of which have targeted critical mass media and digital media representatives.¹⁰⁸ Instances of intentional interference with journalists' professional activities, including the use of water cannons against media personnel, intentional destruction of cameras, physical violence, and arrests - have accompanied the demonstrations, outlining the interest of the police forces to prevent coverage of the violent dispersal of the protests and other violations.¹⁰⁹

The media was also a key target during the first wave of protests related to the parliamentary elections. *The law enforcement officers exhibited aggressive attitude towards journalists¹¹⁰ and the instances of violence and interference with their work.¹¹¹* Sergi Baramidze, a cameraman of "Mtavari Arkhi", was interfered and physically assaulted, he was confronted by several police officers, who broke his camera and, subsequently, arrested him.¹¹² Reports regarding the physical retaliation against a journalist of Publika were also disseminated.¹¹³

¹⁰⁸ List of incidents involving Georgian media representatives, The Georgian Charter of Journalistic Ethics, 16.12.2024, <https://www.qartia.ge/ka/siakhleebi/article/99312> [23.12.2024].

¹⁰⁹ GYLA, Throughout the night, riot police repeatedly used special forces against peaceful demonstrators in over a dozen incidents, employing water cannons and tear gas, 02.12.2024. <https://gyla.ge/en/post/2dekemberigancxadeba>, [27.12.2024]. In a democratic society, the media, as a safeguarding institution, plays a crucial role. The "primary function" of media is to cover public and political gatherings and manifestations and to provide the public with information about the developments during protests. **Law enforcement officials are obligated not to interfere with the work of journalists during such demonstrations; on the contrary, they should assist the media to report ongoing developments.**

¹¹⁰ GYLA, GYLA responds to the facts of violence against media representatives and interference with their professional activities on Melikishvili Avenue, 19.11.2024, <https://gyla.ge/en/post/GYLA-melikishvili-gancxadeba>, [27.12.2024].

¹¹¹ *ibid.*

¹¹² *ibid.* Also, the footage showing the violent arrest of the Mtavari Arkhi Cameramen, <https://www.facebook.com/TVFormula/videos/357100950793721>, [27.12.2024].

¹¹³ GYLA, GYLA responds to the facts of violence against media representatives and interference with their professional activities on Melikishvili Avenue, 19.11.2024, <https://gyla.ge/en/post/GYLA-melikishvili-gancxadeba>, [27.12.2024].

5. INVOLVEMENT OF INFORMAL CRIMINAL GROUPS AGAINST THE PROTEST

The number of attacks by violent groups on journalists and demonstrators is increasing. The developments of the past few days, coupled with similar criminal practices in April-May 2024, strongly suggest that state institutions are acting in alliance with informal criminal groups.

This is a tactic that involves informal punitive groups, encouraged by the state institutions and high-ranking officials; the aim of these groups is violence and intimidation of supporters of protests and journalists. The frequency of such facts along with the complete inaction of the police, indicates that those responsible for preventing and addressing crime have in advance gave consent to the criminal actions carried out by these punitive groups.

This tactic was first used during the dispersal of April-May 2024 rallies, which, as a form of behaviour, was assessed as “Titushky Raid”.¹¹⁴ In April-May 2024, during the demonstrations against the “Russian Law”, specific unknown individuals were waiting for rally participants and organizers, and their family members, at their houses or in the streets, and severely assaulted them, which was left without any reaction from the law enforcement bodies,¹¹⁵ further having encouraged and spread the scale of the violence. The violence committed by the punitive groups also took place during the protests related to the elections.¹¹⁶

Starting from 28 November 2024, the target of the informal punitive groups were the following individuals:

- **On 2 December**, the member of the “Coalition of Change”, Gela Khasaia, was attacked by three so-called “Titushky” outside his house, when he was trying to go the rally. He was severely beaten and was subjected to verbal abuse.¹¹⁷
- **On 5 December**, in Freedom Square, in front of the Marriott Hotel, the mobilized so-called “Titushky” were waiting for the opposition leaders to leave the building. Among “Titushky” was Giorgi Pirvelashvili, a police officer in civilian clothes.¹¹⁸ During the confrontation between the “Titushky” and the politicians, the police joined the “Titushky” and arrested an athlete and one of the leaders of political party “Ahali”, Zurab Datunashvili.¹¹⁹

¹¹⁴ GYLA, Georgia: Human Rights amidst the Russian Law, Human Rights 60 Days Following the Revival of the Foreign Influence Transparency Bill, 2024, 9: https://admin.gyla.ge/uploads_script/publications/pdf/%E1%83%90%E1%83%93%E1%83%90%E1%83%9B%E1%83%98%E1%83%90%E1%83%9C%E1%83%98%E1%83%A1%20%E1%83%A3%E1%83%A4%E1%83%9A%E1%83%94%E1%83%91%E1%83%94%E1%83%91%E1%83%98%20%E1%83%A0%E1%83%A3%E1%83%A1%E1%83%A3%E1%83%9A%E1%83%98%20%E1%83%99%E1%83%90%E1%83%9C%E1%83%9D%E1%83%9C%E1%83%98%E1%83%A1%20%E1%83%9E%E1%83%98%E1%83%A0%E1%83%98%E1%83%A1%E1%83%9E%E1%83%98%E1%83%A0.pdf_01722589845.pdf, [27.12.2024].

¹¹⁵ *ibid.*

¹¹⁶ The Public Broadcaster, the Rally at the house of the CEC Chairperson, 16.11.2024, available: <https://1tv.ge/video/aqcia-cesko-s-tavmjdomaris-sakhltan/>, [27.12.2024].

¹¹⁷ Gela Khasaia was met outside his house, 02.12.24, <https://www.facebook.com/mariam.shushania.1/posts/pfbid034PpzxMw6XJU3gZBXU9iCSaMjcYjvBndtrPjwMSMmE6FktnPHX1Ka6eQH5MKfmgGI>, [27.12.2024].

¹¹⁸ TV Pirveli, 04.12.2024, <https://www.youtube.com/watch?v=pW8QBvpM4dU>, [27.12.2024].

¹¹⁹ Euronews, the meeting of opposition parties was followed by the physical confrontation at the Courtyard Marriott, 04.12.2024, <https://www.youtube.com/watch?v=4B2IXUzAVW8>, [27.12.2024].

- **On 6 December**, the journalist of “Publika”, Mindia Gabadze, was attacked and physically assaulted by unknown individuals while he was covering the protests near the Blue Gallery. Despite the fact that the law enforcement officers were standing in a close distance, they did not react.¹²⁰
- **During the night of the 6-7 December rally**, after the demonstrators moved from Rustaveli Avenue to the river bank through Tarkhnishvili Street, they were confronted by unknown individuals armed¹²¹ with firearms,¹²² which was not responded by the police.
- **On 7 December**, the violence of punitive groups reached a new repressive level, after they attacked and physically assaulted the participants of the rally. The citizens were saying that the participants of the rally were chased and beaten by masked person armed with batons.¹²³ Actor Giorgi Makhradze was also physically assaulted, and according to him, the police did not react properly to the violence.¹²⁴ According to the reports, “Titushky” beat the rally participant, psychologist Giorgi Chigovadze.¹²⁵
- **On 7 December**, the same punitive group attacked the journalist of “TV Pirveli”, Maka Chikhladze¹²⁶, and, at the same time, severely assaulted the cameraman, Giorgi Shetsiruli.¹²⁷ The members of the group also physically assaulted Maka Janashia and Eka Janashia and took away their mobile phones, because they were filming the attack on “TV Pirveli” journalists.¹²⁸
- **On 7 December**, following the attack on “TV Pirveli” camera crew, the same punitive group¹²⁹ broke into the office of “Ahali” party and physically assaulted Koba Khabazi. Both attacks took place within a short time interval on Besiki Street, and the police did not react to it either.

The state institutions are well-aware who the members of these punitive groups are. Particularly, this is evident from various materials available in open sources, for example, the

¹²⁰ GYLA, GYLA refers to the attack on the journalist of “Publika”, Mindia Gabadze, 06.12.2024, <https://www.facebook.com/photo/?fbid=997707765734579&set=a.485094683662559>, [27.12.2024].

¹²¹ TV Pirveli, !! “Titushky” with weapons were sent to the demonstrators at the [river] bank, 07.12.2024, <https://www.facebook.com/watch/?v=1086442272746708>, [27.12.2024].

¹²² GYLA, On the 9th night of legitimate protest, the crackdown on the protest has entered a new stage of police terror, 07.12.24. <https://gyla.ge/post/protesti-me9-game-darebav-gyla>, [27.12.2024].

¹²³ The Live Broadcast of TV Pirveli, 07.12.2024, 22:10.

¹²⁴ Mtavari Arkhi, 07.12.2024, <https://www.facebook.com/TvMtavari/videos/594925579675717>, [27.12.2024].

¹²⁵ Mtavari Arkhi, 08.12.2024,

<https://www.facebook.com/photo/?fbid=978915494291121&set=a.628036179379056>, [27.12.2024].

¹²⁶ During the live broadcasting, a masked person approached the camera crew and was trying to take the camera from the cameraman, at the same time, Maka Chikhladze is approached by the masked person from behind and threw her on the ground, the cameraman was physically assaulted. Pirveli Arkhi, the camera crew of “TV Pirveli” was attacked during live broadcasting [video], 07.12.2024, https://1tv.ge/news/telekompania-tv-pirvelis-gadamgheb-jgufs-pirdapir-etershi-daeskhnen-tavs-video/?fbclid=IwY2xjawHCaPNleHRuA2FibQIxMQABHYDd5ODzxfGKqeD9MnRM0tkrTycKWtiCTHIPJRwxv7PXIXI8JyAj3mhkw_aem_AbU71sKmvbo20XD1oEgLSw, [27.12.2024].

¹²⁷ Publika, “Titushky” physically assaulted the cameraman of “TV Pirveli”, <https://www.facebook.com/reel/1143698633979632>, [27.12.2024].

¹²⁸ <https://www.facebook.com/mariam.gogiasvili.16/posts/pfbid02WCmvaCTmzcHnUTg12zDA753UGQuLPMszBcdZYA5Fn7tX9UzkEWecDTu2rxak8LTil>, [27.12.2024].

¹²⁹ Radio Tavisupleba: the same group attacked the journalist of “TV Pirveli”, Maka Chikhladze and the office of the “Coalition for Change”, 08.12.2024, <https://www.instagram.com/p/DDSyHky20r/>, [27.12.2024].

faces of the attackers can be seen.¹³⁰ However, also considering that the patrol officers could have intervened to prevent or address the violence in real time, the public sources outline a complete lack of response and indifference.¹³¹

All of this, along with other evidence, indicate that the informal punitive groups act with the consent/support of the State institutions and high-ranking officials in order to create terror among the demonstrators and journalists.

¹³⁰ GYLA, On the 9th night of legitimate protest, the crackdown on the protest has entered a new stage of police terror, 07.12.2024, <https://gyla.ge/en/post/protesti-me9-game-darebav-gyla>, [27.12.2024].

¹³¹ Mautskhebeli, “[Someone] is holding a baton and sending off” how the police (doesn’t) react against the masked gangs. <https://www.facebook.com/reel/964512905732781>; “You were watching how 30 people were beating me with a baton, you were watching” – the address of Giorgi Makaharadze to the Policeman, <https://www.facebook.com/reel/500573012333067>, [27.12.2024].

6. ENFORCED DISAPPEARANCE WITH THE DISREGARD OF PROCEDURAL SAFEGUARDS

Since 7 December 2024, individuals have been unlawfully and arbitrarily taken from their houses and streets by unknown persons, leaving their families unaware of the reasons for this or their whereabouts. It remains unclear whether these persons involved are law enforcement officials. For hours, neither lawyers nor family members are informed regarding the person's location, condition and their legal status.

More particularly, in the afternoon of December 7, multiple reports emerged of rally participants being approached at their homes by unknown individuals. According to family members and friends, the rally participants were taken from their homes by the individuals, who claimed to be law enforcement officers but were not in uniform. They simply stated that they wished to conduct an interview. They took the individuals without providing any justification or explanation.¹³²

Such practices may constitute enforced disappearance, which occurs **when private individuals, acting with the authority, support, or consent of the state, secretly abduct, arrest, or otherwise deprive individuals of their liberty in ways that deliberately conceal their fate or whereabouts, thereby placing them outside the protection of the law.**¹³³

In addition, the State grossly disregards the procedural safeguards, including the fundamental constitutional right, such as the right to access to a lawyer upon the arrest.

It was then revealed that some of these individuals were taken to the Central Criminal Police Department, where, despite the lawyers' explanation that the persons under their legal assistance had not consented to the questioning, these individuals were forcibly subjected to it. The lawyer was not allowed to be with the persons who had been forcibly taken to the questioning and he/she was waiting outside the department while the procedure was taking place.¹³⁴ At the same time, a lawyer from the Legal Aid Network received alarming information from one of the beneficiaries. Namely, according to the arrested person, during their arrest, masked individuals forced the person in the police car with them to hold a knife, while making him/her repeat that it was his/her melee weapon.¹³⁵

The Criminal Procedure Code of Georgia explicitly outlines that the party conducting the questioning shall from the beginning inform the interviewee that the process is voluntary and the latter has the right to use the services of a lawyer. Giving testimony is only obligatory when a person is summoned to the magistrate judge, making the above-mentioned actions of the police illegal.

Therefore, the unlawful arrest of citizens by the police, their forced transportation for questioning, forced questioning, and the restriction of the lawyers' rights to representation are severe violations of the Constitution of Georgia and other legislative acts, and shall be stopped immediately.¹³⁶

¹³² The Statement of the Legal Aid Network of Non-Governmental Organizations regarding the Developments taken place on December 7, 08.12.2024, https://gyla.ge/post/7-dekemberi-qselisertoblivi-gancxaeba-gyla?fbclid=IwY2xjawHCQuVleHRuA2FbQlXMAABHf8fZbbG1LyA01CcA3AtSX6UEqhaEcXNhxTV7WrvCaHVPIykwIDLH7ixw_aem_2FE6gpWtdskqOdVNRUGAMQ, [27.12.2024].

¹³³ The Resolution of the Council of Europe, 1463 (2005), <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17371>, [27.12.2024].

¹³⁴ *ibid.*

¹³⁵ *ibid.*

¹³⁶ The Statement of the Non-Governmental Organizations regarding the Forced Questioning of Individuals, 11.12.2024, <https://gyla.ge/en/post/pirebis-idzulebiti-gamokitxa?fbclid=IwY2xjawHQ3axleHRuA2FbQlXm>

7. UNLAWFUL ADMINISTRATIVE ARRESTS

According to the data of the Legal Aid Network of the non-governmental organizations, over 450 persons have been under administrative arrest.¹³⁷ It is noteworthy that the Administrative Offences Code is not in line with international standards and leaves the individuals without significant safeguards, including insufficient safeguards for the protection of arrested individuals, the lack of clarity regarding the burden of proof and the lack of a right to appeal.¹³⁸ It is noteworthy that some individuals were not arrested during the protests, but they were arrested either in the streets after the protest had ended or during the following days near their houses.¹³⁹ It should also be outlined that the Council of Europe Commissioner for Human Rights called on the Government to immediately release all those individuals who are detained for the legitimate exercise of their right to demonstrate.¹⁴⁰

As of 9 December,¹⁴¹ the court declared all 114 individuals, whose cases were heard, administrative offenders and imposed severe penalties, including administrative detention, fine, warning.¹⁴²

The deterioration of the legislative framework

On 13 December 2024, the Parliament approved, in the third reading, a package of legislative amendments aimed at making the Administrative Offences Code¹⁴³ an even more repressive tool.

The amendments significantly increase penalties for offences commonly employed by the Ministry of Internal Affairs against protest participants. Additionally, new offences and grounds for arrest have been introduced into the Code.

It is evident that with the disproportionate increase in penalties and the introduction of new grounds for actions related to assemblies, demonstrations and protests, the “Georgian Dream” attempts to intimidate the public. This is taking place in the context when the Ministry of Internal Affairs actively employs the Administrative Offences Code against the participants of the protests, which, by refusing to uphold the justice, is approved by the judiciary.

AABHc2-X8e837F8SdVrtgZqZ60cYdYaMt3ZXHjklFvwtMiNF8TV_8dI7Epf_g_aem_O0iglk4jjRQlCxTu9n44gw [27.12.2024].

¹³⁷ GYLA, 17.12.2024, <https://www.facebook.com/photo?fbid=1005401688298520&set=pcb.1005401751631847>, 17.12.2024, [19.12.2024].

¹³⁸ Human Rights Committee Concluding observations on the fifth periodic report of Georgia, CCPR/C/GEO/CO/5, 2022.

¹³⁹ Social Justice Center, Social Justice Center assesses the facts of unlawful arrests of civil activists, 07.12.2024, https://socialjustice.org.ge/ka/products/sotsialuri-samartlianobis-tsentri-samokalako-aktivistebis-ukanonodakavebis-shemtkhvevebs-afasebs?fbclid=IwY2xjawHSpINleHRuA2FlbQIxMAABHfInHMMXA68Ptr9_x512sqEvQQZ3UXtJKloo_-E-qZ8SAFArvFivlVVI6g_aem_Tlz9DYHOFa2zbxzcZ8IOGJQ, [19.12.2024].

¹⁴⁰ CoE, Commissioner for Human Rights, Georgian authorities must fulfil their obligation to uphold the right of peaceful assembly, 04.12.2024, <https://www.coe.int/en/web/commissioner/-/georgian-authorities-must-fulfil-their-obligation-to-uphold-the-right-of-peaceful-assembly>, [27.12.2024].

¹⁴¹ As of 9 December, the lawyers of the Legal Aid Network of the non-governmental organizations represented the interests of 114 persons at the court; the police claimed that they had committed disorderly conduct or/and had not complied with a lawful order or demand of a law-enforcement officer; all these people were declared administrative offenders by the court, GYLA, 17.12.2024, <https://www.facebook.com/photo?fbid=1005401681631854&set=pcb.1005401751631847>, [27.12.2024].

¹⁴² It is noteworthy that 32 people were fined due to “violation of the rules of organizing and conducting assemblies and demonstrations”, GYLA, 17.12.2024, <https://www.facebook.com/photo?fbid=1005401691631853&set=pcb.1005401751631847>, [19.12.2024].

¹⁴³ The Draft Law and related files, <https://info.parliament.ge/#law-drafting/29789>, [27.12.2024].

Therefore, it is expected that these penalties will be used not to protect the law and order, but to suppress the rights to freedom of expression and assembly.

The amendments are, as follows:

New Offences

- *Covering the face with a mask or any other means* will be considered as an administrative offence, punishable by a fine of 2 000 GEL.
- Participants of the assembly will also be prohibited from bringing “*devices emitting laser and/or sharp emission, the use of which could interfere with the operations of state representatives and/or disrupt the proper functioning of their technical equipment*”.

During the ongoing protests, the MIA is routinely conducting unlawful search and, even confiscating legal items of individuals, such as gas masks and masks. As a result, it is anticipated that the MIA will use this restriction to justify illegal searches and apply it disproportionately, including against those individuals possessing laser or light-emitting devices, who, in reality, with the mentioned items cannot interfere with the activities of state representatives or the functioning their technical equipment.

A penalty for violating this requirement would also be 2 000 GEL.

- The context of the offence prescribed under Article 173 of the same Code (*Non-compliance with a lawful order or demand of a law-enforcement officer*) is incorporated into the provision of failure of a parent or legal guardian to fulfil their duties regarding a child’s upbringing, education, or other responsibilities. It is important to note that police frequently employ Article 173 when arresting demonstrators without valid grounds.
- A new offence is introduced to the Code (Article 198³) - *illegal wearing of clothes and equipment of uniform prescribed by the Ministry of Internal Affairs of Georgia, or the wearing of clothing/equipment resembling the official uniform and/or equipment prescribed by the Ministry of Internal Affairs by individuals who are not employees of the Ministry of Internal Affairs, which, under certain circumstances, may mislead an objective observer.*

A penalty for this offence is outlined to be fine in the amount of 2 000 GEL, along with the confiscation of the item.

Increased Penalties

- Violating the rules for organising or holding assemblies or demonstrations

According to the new version of the Article 174¹(4) of the Code, the penalties prescribed for violations of Articles 9, 11 and 111 of the Law of Georgia “on Assemblies and Demonstrations” have been significantly increased.

The mentioned provisions are related to holding assemblies or demonstrations in the prohibited places, making prohibited calls, having the prohibited items and blocking the traffic roadway despite the small quantity of the demonstrators.

The former edition prescribed fines in the amount of 500 GEL or administrative arrest for up to 15 days, while in case an offender was an organizer, fine - in the amount of 5 000 GEL or administrative arrest for up to 15 days. In the new version, the fines are respectively – 5 000 GEL and 15 000 GEL.

- Blocking a road with vehicles in an organised way or taking part in a group driving in town or another populated area, during which the roadway is fully occupied

Until now, Article 125(6¹) prescribed fine in the amount of 1 000 GEL, while with the new amendments it also includes the suspension of the right to drive for 1 year (cumulatively).

- Defacement of the appearance of a territory within the administrative boundaries of a municipality

For the offence prescribed by Article 150(1), defacement of the appearance of a territory within the administrative boundaries of a municipality (making various types of inscriptions, drawings or symbols on building facades, shop windows, fences, columns, trees or other plantings without authorisation, also putting up placards, slogans, banners at places not allocated for this purpose, or leaving fences and buildings unpainted¹⁴⁴) the fine is increasing and it would be 1 000 GEL instead of 50 GEL.

The repeated commission of this offence (Article 150(2)) will carry a fine of 2 000 GEL instead of 500 GEL.

- Similarly, the amount of fines is increased for other paragraphs of the mentioned Article:

Making various types of inscriptions, drawings, symbols on the facades of administrative buildings, or in the adjacent territory, including pavement and road surfaces will carry a fine of 2 000 GEL instead of 500 GEL. The repeated commission of this offence will carry a fine of 3 000 GEL instead of 1 000 GEL, or if the application of this measure is deemed insufficient after taking into account the circumstances of the case and the person of the offender - an administrative arrest of up to 15 days.

Defacement of the appearance of a territory committed in a cultural heritage protection zone determined under the Law of Georgia “on Cultural Heritage”, will carry a fine of 2 000 GEL instead of 1 000 GEL. The repeated commission of this offence will carry a fine of 3 500 GEL instead of 2 000 GEL.

Failure to remedy the violation defined in this Article within ten days after a fine is imposed will carry a fine of 1 000 GEL instead of 500 GEL.

- The penalties are similarly increased for the offences prescribed by Article 150² (defacement of the appearance of the Tbilisi city municipality):

Arbitrary making of various types of inscriptions, drawings or symbols on building facades, shop windows, fences, columns, trees and plants, on pedestrian walkways and driveways, or putting up of placards, slogans, or banners at places not allocated for this purpose, or leaving of fences and buildings unpainted in the Tbilisi city municipality will carry a fine of 1 000 GEL instead of 200 GEL. The repeated commission of this offence will carry a fine of 2 000 GEL instead of 1000 GEL.

Arbitrary making of various types of inscriptions, drawings, or symbols on the facades of administrative buildings, and in the adjacent territory, including pedestri-

¹⁴⁴ The **normative content** of the words in Article 150(1) – ‘also putting up placards, slogans, banners at places not allocated for this purpose’, which excludes the possibility of temporary placement, for a short period of time within a spontaneous protest action, of placards, slogans, or banners by the owner or with the consent of the owner, at places that are not allocated for this purpose - has been declared unconstitutional. – Decision №1/5/1271 of 4 July 2019 of the Constitutional Court of Georgia – website, 09.07.2019

an walkways and driveways in the Tbilisi City municipality will carry a fine of 2 000 GEL instead of 1 000 GEL. The repeated commission of this offence will carry a fine of 3 000 GEL instead of 2 000 GEL.

Commission of an offence prescribed by this article within a cultural heritage protective zone determined by the Law of Georgia “on Cultural Heritage”, will carry a fine of 2 000 GEL instead of 1000 GEL. The repeated commission of this offence will carry a fine of 3 500 GEL instead of 2000 GEL.

- Vandalism

The fines prescribed for the first and second paragraph of the Vandalism Article (Article 1662) have been increased, and it will be respectively, 1 000 GEL instead of 300 GEL, and 2 000 GEL instead of 500 GEL.

The Grounds for Arrest

It is also noteworthy that the list of the grounds permitting administrative arrest, personal search, search of belongings and seizure of the belongings and documents, is also expanding. The following new grounds have been added to the existing grounds already prescribed in the Code:

- Ensuring timely appearance of the offender in court;
- Preventing delays in the proceedings;
- Preventing a person from avoiding participation in administrative proceedings;
- Preventing the repeated commission of the administrative offence (Article 244).

It is worth noting that for years the administrative offences code has been used as a repressive mechanism against protesters. Usually administrative detention is arbitrary, 24-hour detention period is arbitrarily extended by an additional 24 hours, with a standard and unsubstantiated justification.¹⁴⁵ Court proceedings disregard the right to fair trial and evidence presented by victims to refute these false testimonies is disregarded by judges.¹⁴⁶ This practices have also been concernong in the context of protests in previous years.¹⁴⁷

The arbitrary nature of detentions, restrictions on liberty, and subsequent labeling of individuals as offenders under the Administrative Offences Code, lack of effective appeal mechanisms and judicial practices that deny individuals the right to a fair trial highlight that detentions aimed at preventing the repeated commission of administrative offences will be misused, infringing on the rights to liberty, freedom of expression, and assembly, and enabling even greater arbitrariness by law enforcement.

¹⁴⁵ Statement of the Legal Aid Network of Non-Governmental Organizations Regarding Detainees, 01.12.2024, <https://gyla.ge/post/arasamtavrobo-organizaciebis-qselis-gancxadeba-dakavebulebze>, [27.12.2024].

¹⁴⁶ Ibid, See also: IRCT, IFEG, OMCT, Omega Research Foundation, GYLA, GCRT, HRC, 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/post/tsameba-da-araadamanurimopkroba-saerto-gancxadeba>, [27.12.2024].

¹⁴⁷ GYLA, GEORGIA IN 2023 ASSESSMENT OF THE RULE OF LAW AND HUMAN RIGHTS, 2024, 19-21, https://admin.gyla.ge/uploads_script/publications/pdf/GEORGIA%20IN%202023.pdf, [27.12.2024].

8. USE OF CRIMINAL MECHANISMS AGAINST THE DEMONSTRATORS

The use of criminal law mechanisms has been increased, and one of its aims to suppress dissent.¹⁴⁸ GYLA monitors ongoing criminal cases involving up to 50 individuals, whose cases are connected to the protests. This includes the cases of 6 people arrested during the April-May 2024 protests against the Russian Law, 38 accused people who were arrested during the continuous, legitimate protests following 19 and 28 November, as well as, Balda Canyon activist Indiko Bzhalava, activist Vitali Guguchia and activist Ioseb Babaev.

The following issues were revealed during the court proceedings concerning the charges against the demonstrators:

- ✓ *Imprisonment as a measure of restraint without considering the individual circumstances of the accused.*
- ✓ *Instances of ill-treatment.*
- ✓ *The absence of a “reasonable belief” standard.*
- ✓ *Technical challenges related to holding the hearing and others.*

1. Presented Charges

The activists are mainly facing the following charges: **organisation, management or participation in group violence**¹⁴⁹ (Article 225(1) and (2) of the CCG), **harming the health of police officer in connection with their official activities**¹⁵⁰ (Article 353¹(2) of the CCG), **damage or destruction of property by a group of persons** (Article 187(2) of the CCG)¹⁵¹ and others. Opposition politician Aleko Elisashvili is charged with **persecution**, committed with violence or threat of violence (Article 156(2) of the CCG), while the charges of some activists are **drug-related crimes**¹⁵² (Article 260 of the CCG).

2. The delayed proceedings

The cases of individuals arrested during protests against the Russian law are being delayed in court. Despite the fact that in most of these cases the evidence is not disputed, the court is not concluding the case and repeatedly postpones hearings for a long time based on various reasons. **GYLA assesses that the Prosecutor’s Office of Georgia and the Tbilisi City Court are deliberately lengthening the proceedings, possibly to hinder President Salome Zourabichvili to exercise her presidential powers to pardon activists.** Such an approach from the prosecuting authorities and the judiciary raises concerns that the ongoing criminal

¹⁴⁸ GYLA, Results of monitoring criminal cases against demonstrators, 10.12.2024, <https://gyla.ge/en/post/siskhlis-saqmeebis-montoringi-demonstratnebi-gyla>, [27.12.2024].

The activists are charged with following crimes: participation in group violence (Article 225(2) of the CCG), preparation of explosion (Article 18, 229 of the CCG), harming the health of police officer in connection with their official activities (Article 353¹ of the CCG) and others.

¹⁴⁹ The accusation of Irakli Kerashvili, Revaz Kiknadze, Andro Chichinadze, Onise Tskhadadze, Luka Jabua, Guram Mirtskhulava, Jano Archaia, Ruslan Chivakov, Vepkhia Kasradze, Vasil Kadzlashvili, Giorgi Giorgadze, Irakli Miminoshvili, Isak Aliev, Tornike Goshadze, Zviad Tsetskhladze and Nikoloz Javakhishvili.

¹⁵⁰ The accusation of Saba Skhvitaridze.

¹⁵¹ The accusation of Saba Meparishvili and Omar Okribelashvili.

¹⁵² The accusations of Giorgi Akhobadze, Tedo Abramov and Nikoloz Katsia.

cases against the activists are allegedly not free from political bias, which is concerning and undermines the work, on the one hand, of the Prosecutor's Office, as a constitutional body, and, on the other hand, of the judiciary.

3. The practice of using imprisonment without considering the individual circumstances of the accused

With regards to all activists arrested during the protests against the Russian Law and during the November protests – **at the first stage, the court applied the most severe measure of restraint – detention.** In all cases, the court satisfied the prosecutor's request to use the most severe measure of restraint – detention - without taking into account the circumstances of the accused, such as the individual characteristics of the accused, their personality, occupation, age, health, family and property status, and other circumstances. Among the detainees were individuals under the age of 21, students, and people from socially vulnerable families. Some were the sole breadwinners or caregivers of family members with health problems. The majority of them had no previous convictions and/or had not committed any administrative offences. The prosecution's justification for using detention was based on generalized risks, such as the risk of absconding, destruction of evidence, or committing a new crime.

The detention was only replaced with a less severe measure of restraint in two exceptional cases: one involving politician Aleko Elisashvili, and the other one – a minor activist. In both instances, the prosecution itself submitted a motion to replace the detention, in the first case – with **bail**, and with regards to the minor – **placement under parental monitoring.**

4. Standard of "Reasonable Belief"

The lawyers consistently emphasized the lack of evidence that would meet the standard of reasonable belief required for criminal charges. Particularly, Regarding the charges under Article 225 (organization, management or participation in group violence), the lawyers argued that the prosecution failed to demonstrate any coordination or collective action among the accused. In most cases, the accused were charged with isolated acts that occurred at different times and places, without evidence of mutual knowledge or intent to act together.

The prosecution accused individuals of committing acts such as throwing objects (e.g., sticks, bottles, cardboard sticks, and unidentified heavy objects) but failed to link these actions to joint and collective violence. Moreover, the prosecution did not establish specific harm resulting from these actions.

Regarding this, it is also noteworthy that one of the defence lawyers pointed out that similar actions had been addressed within the framework of administrative violations in previous cases, where the court had recognized the accused as administrative offenders. This raised the question of how the prosecution distinguished these actions from administrative violations. For example, when throwing a stone or stick, the lawyer questioned where the line was drawn between an administrative offence and a crime

The charges under Article 225 of the Criminal Code of Georgia are significant not only because they challenge the reasonable belief standard with respect to the accused individuals but also because they raise concerns about the potential misuse of legal mechanisms to restrict freedom of expression. The risk is that such charges could lead to the persecution of protest participants and undermine their right to engage in peaceful protest.

5. Instances of Ill-treatment

Several demonstrators arrested under criminal law stated that they were subjected to ill-treatment during their arrest, transportation, or detention. For example: **during the first appearance hearing, Aleko Elisashvili stated that he was put into a car during his arrest and beaten.**

Saba Svitavidze described in detail his experiences of torture and inhuman treatment. According to Svitavidze, he was arrested by the police on Zestaponi Road, was not given the reason for his arrest, nor was he given the opportunity to contact a lawyer, was then handed over to an unknown operational group near Gori, and was taken to the police department in Digomi. In Digomi, on the fifth floor of the department building, he was physically assaulted and beaten by four masked men, and then on the eighth floor of the same building, a person wearing a patrol uniform and wearing a mask assaulted him again, along with other individuals.

Revaz Kiknadze stated that he was being forced to confess to the crime and blame others under psychological pressure and verbal abuse, which would lead to a loyal attitude towards him from the system.

The information provided to the court by the accused, along with other experiences, reinforces the fact that torture, inhuman and degrading treatment of individuals is systemic and widespread.

6. The inactivity of the Special Investigation Service

It is alarming that until now the effective investigation into the facts of exceeding power by the law enforcement officers and identification of those responsible have not taken place **either regarding the protests against the Russian Law, or, also, regarding the protests following 28 November.**

The systematic inactivity of the Special Investigation Service regarding crimes committed against demonstrators and journalists over these developments suggests their complicity in these acts of violence.

Furthermore, it is noteworthy that starting from 4 December 2024, the “Georgian Dream” regime launched a new, intensive wave of repressions against active participants of the pro-European protests. Particularly, they used violent, degrading arrests of people and searches of residences of people¹⁵³, which aimed at suppressing legitimate protests through intimidation of people.¹⁵⁴

¹⁵³ *During the operation, the policemen did not consider the presence of children in the apartment of one person, according to them, the manner of search was so frightening that another individual present required medical assistance.* Social Justice Center, Social Justice Center assesses the facts of unlawful arrests of civil activists, 07.12.2024, <https://socialjustice.org.ge/ka/products/samokalako-aktivistebis-binebisa-da-politikuri-partiebis-ofisebis-chkhreka-politikur-devnasa-da-saprotesto-aktsiis-diskreditatsias-emsakhureba>, [27.12.2024].

¹⁵⁴ GYLA, Statement 04.12.2024, <https://www.facebook.com/photo/?fbid=996298345875521&set=a.485094690329225>, [27.12.2024].

9. REPRESSIONS AGAINST THE PUBLIC SERVANTS

The public servants of various state agencies have publicly expressed opposition to Georgian Dream's decision through official statements.¹⁵⁵ Since these protests from public servants stand in direct contradiction to the ruling Georgian Dream's position, there is a risk they may face dismissal. Statements by the Mayor of Tbilisi, Kakha Kaladze¹⁵⁶ and Georgian Dream member Nino Tsilosani,¹⁵⁷ reinforce concerns about potential pressure on public servants to terminate their employment.

The announced reorganization of the municipal administration may be utilized as an instrument against public servants who express their position regarding the country's European future and distance themselves from the decisions made by Georgian Dream contravening the constitutional order.¹⁵⁸

The Constitution of Georgia and the European Convention on Human Rights protect the freedom of expression for all individuals, including public servants. While the Law on Public Service obliges public servants to adhere to political neutrality, expressing opinions on foreign policy does not violate this principle. Such actions do not constitute political agitation or support for any political party and align with Article 78 of the Constitution.

Chapter 12 of the Law on Public Service clearly defines the grounds for dismissal, none of which include expressing opinions. Furthermore, coercing public servants (directly or indirectly) to submit resignation letters due to their legitimate protests (or for any other reason) constitutes a criminal offense under Article 169 of the Criminal Code of Georgia.¹⁵⁹

In addition, the illegitimate Parliament tightened the Law of Georgia on Public Service, which further strengthened the repressive mechanisms. Namely, On 11 December 2024, on the 14th day of the pro-European protests, and in the context when human rights are massively violated, at the self-proclaimed Parliament, the "Georgian Dream" initiated undemocratic and repressive legislative amendments to the several laws.¹⁶⁰ They were considered and adopted through an expedited manner.

¹⁵⁵ The Ministry of Foreign Affairs of Georgia, The Ministry of Defence of Georgia, The Ministry of Education, Science and Youth of Georgia, LEPL Public Service Development Agency, The Common Courts, The Constitutional Court of Georgia, The National Center for Disease Control (NCDC), The Public Service Hall, The Civil Aviation Agency, The National Bank, Social Workers, The Parliament of Georgia, The Administration of the Government, The Employees of the GNERC and the NBG, The Tbilisi City Hall, Teachers, LEPL of the Ministry of Justice, National Agency for Crime Prevention, Enforcement of Non-custodial Sentences and Probation, The Personal Data Protection Service, The Batumi City Hall, The Revenue Service, K. Kekelidze National Centre of Manuscripts of Georgia, and others. [27.12.2024].

¹⁵⁶ "For me, it is clear. Last week, we announced the reorganization at the City Hall. Therefore, self-lustration is good. *Everyone has their own way. These people choose this way. It is their decision.*" Mtavari Arkhi, Kaladze threatens the employees of the City Hall, who protested the illegitimate Government's decision, with dismissal, 01.12.2024, <https://mtavari.tv/news/171164-kaladze-meris-tanamshromlebs-romlebmats>, [27.12.2024].

¹⁵⁷ "After this farce, you would be more persuasive if you step down from your positions and reflect your core values." Tabula, Tsilosani to employees of the Ministry of Foreign Affairs: word "foreign" should not be main, but "own", 29.11.2024, <https://tabula.ge/en/news/726490-cilosani-sagareos-tanamshromlebs-sitqva-sagareo>, [27.12.2024].

¹⁵⁸ GYLA, it is inadmissible to persecute or exert pressure on public servants due to differing political views, 02.12.2024, https://gyla.ge/en/post/gancxadebeba-2dekemberi?fbclid=IwY2xjawHSnr9leHRuA2FlbQlxMAABHfjMID2Wj0o2B5RKeXKwAblL_bnJsfNrDix-CkD5oZzJtKq-QZBjD-Q_aem_iVQ-Bg9iGX1j571V43U40Q, [27.12.2024].

¹⁵⁹ GYLA, GYLA: Pressure on public officials for their legitimate protest is a criminal offense, 02.12.2024, https://gyla.ge/en/post/saguaro-mokheleebze-zewola-siskhlis-samartlis-danashaulia?fbclid=IwY2xjawHSn3NleHRuA2FlbQlxMAABHdWn86g27aK9lgKJMBqfj4vJrHmSrGqoFtRUd5vCN9_J2bh_biP-8unw_aem_cGwve7G-vcQgn-NFzV5VRQ, [27.12.2024].

¹⁶⁰ GYLA, The "Georgian Dream" is trying to make undemocratic and repressive amendments to the legislation, 12.12.2024, https://gyla.ge/post/represiuli-sakanonmdelblo-cvlibebbi-gyla?fbclid=IwY2xjawHSojpleHRuA2FlbQlxMAABHf400EUX7nSUPpOvVndfXt8IUMACjTfxZ1LG15KlxULkYu8XspV4Utt3A_aem_ojbp0f0SGa9GlpJfH32NtQ, [27.12.2024].

Amendments to the Law on Public Service

It is noteworthy that the initiated draft law had significantly weakened the safeguards for public servants and, among other things, created a possibility for political cleansing under the name of the reorganization,¹⁶¹ however, during the second reading, the draft law was somehow modified, becoming even worse filled with other repressive amendments.¹⁶²

Amid the ongoing terror, the public servants are facing severe pressure,¹⁶³ which is also confirmed by the public statements of the political authorities. GYLA considers that with the amendments adopted in the third reading, the Government is creating another repressive tool – this time targeting public servants, and is trying to lay the legislative basis to the process of blurring the lines between political parties and the public service.¹⁶⁴ The amendments introduce the following new regulations:

The Status of the Head of the First Subdivision and their Deputy

According to the amendments, the head of the first subdivision and their deputy will not be qualified public officers, but persons employed on the basis of an agreement under public law. This amendment, on the one hand, significantly weakens the safeguards for these individuals, while on the other hand, it disproportionately increases the power of the head of the public institution.

- The duration of the agreement under public law of the head of the first subdivision and their deputy shall not exceed the term of office of the head of the relevant institution;
- Conducting the competition to appoint the head of the first subdivision and their deputy will not be mandatory;
- **The Head of the first subdivision and their deputy, as persons employed on the basis of an agreement under public law, are no longer required to know the official language, to have attained the age of 18, to hold an officer's certificate;**
- Dismissal of these officials can occur at the initiative of the head of the relevant institution, with the individual being notified one month in advance. In such case, the person will receive the compensation in the amount of 1-month official salary. Therefore, the grounds and safeguards (Chapter XII of the Law) do not apply to this managerial level, allowing the head of the institution to make arbitrary, politically motivated decisions.¹⁶⁵

¹⁶¹ The “Georgian Dream” is trying to make undemocratic and repressive amendments to the legislation, 12.12.2024, <https://gyla.ge/post/represiuli-sakanonmdeblo-cvlilebebi-gyla>, [27.12.2024].

¹⁶² Regarding the Amendments to the Law of Georgia on Public Service, <https://info.parliament.ge/#law-drafting/29794>, [27.12.2024].

¹⁶³ For further information regarding the repressive mechanisms used by the State against the protests, see: GYLA, 10 Days of Terror Against the Peaceful Protest, 08.12.2024, <https://gyla.ge/en/post/terrororis10dge>, [27.12.2024]; It is inadmissible to persecute or exert pressure on public servants due to differing political views, 02.12.2024, <https://gyla.ge/en/post/gancxadebeba-2dekemberi>, [27.12.2024].

¹⁶⁴ GYLA, The amendments made in an expedited manner to the Law “On Public Service” are designed to increase pressure on public servants and further politicize the public service, 16.12.2024, https://gyla.ge/en/post/sajaro-samsaxuris-sheaxebkanoni-cvlilebebi?fbclid=IwY2xjawHTr6BleHRuA2FibQlxMAABHcibwWeRZ2yQHoALDhIXvuJYKVBgYQTdsbSICHjAmozoROMn5B8iiQc5pA_aem_RgqoTfLEhE2mtw15BIUJA, [27.12.2024].

¹⁶⁵ *ibid.*

Competition Commission

Under the new regulations, the head of the public institution will appoint as the chairperson of the Competition Commission the head of the first subdivision, their deputy or an officer holding Rank II position in the same public institution (until now, as prescribed by the regulations in force, the head of the public institution concerned would appoint as the chairperson of the Competition Commission an officer holding Rank I or II position in the same public institution).

As mentioned above, the adopted amendments have politicized the roles of the head of the subdivision and their deputy, making them more vulnerable to undue influence. Consequently, having these individuals lead the Competition Commission raises concerns about the potential politicization of the competition process itself.¹⁶⁶

Reorganisation

The new amendments make it easier to use the reorganization as a political cleansing tool.

- The edition in force until now allowed a possibility, in the case of reduction in the number of posts due to the reorganisation, to transfer an officer, with his/her consent, to an equal position in the same or another public institution, and if no such position is available - to a lower position. In the case of reduction in the number of posts due to the reorganization, it was only allowed to dismiss an officer if such a mobility was not an option. According to the new amendments, in the case of reduction in the number of posts due to the reorganisation, this safeguard no longer applies to the officers and they can be dismissed regardless of whether mobility is possible or not;
- Appealing the decision of the reorganisation, liquidation of the public institution and/or its merger with another public institution, or any other decisions made in the process or related to the reorganisation, liquidation of the public institution and/or its merger with another public institution, will not suspend the effects of the decision;
- A person dismissed as a result of reorganization cannot be reinstated, even if the court rules in their favour. Full or partial satisfaction of the complaint/lawsuit filed by a dismissed individual will not lead to reinstatement. In this case, they will receive lost earnings of the official salary and compensation equivalent to three months' official salary, and they will be enrolled into the reserve of officers if they express their consent.¹⁶⁷

Evaluation of Public Servants

The new amendments reduce the periodicity of the evaluation of public servants from one year to six months. The new version allows the head of the public institution to change the results of the assessments of a public servant within one month of its completion. In addition, in case of unsatisfactory result as prescribed by Article 53(3(d)), 20% of the official salary of a public servant will be deducted until the start of the new evaluation. This provision poses a threat that the evaluation process could be groundlessly and maliciously used as a tool for punishing officers.¹⁶⁸

¹⁶⁶ *ibid.*

¹⁶⁷ *ibid.*

¹⁶⁸ *ibid.*