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OPINION ON AMENDMENTS TO THE LAW OF GEORGIA "ON GRANTS", THE ORGANIC LAW OF GEORGIA "ON POLITICAL UNION OF CITIZENS" AND SEVERAL OTHER RELATED LAWS

Adopted by the Expert Council on NGO Law of the Conference of INGOs of the Council of Europe

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EXECUTIVE SUMMARY

This Opinion examines the compatibility with European standards protecting freedom of association and related rights of the provisions in amendments made to the Law of Georgia "On Grants", the Organic Law of Georgia "On Political Unions of Citizens", the Administrative Procedure Code of Georgia, the Code of Administrative Offences of Georgia, the Criminal Code of Georgia and the Organic Law of Georgia "On the State Audit Office" adopted on 4 March 2026.

The provisions in these amendments are concerned with expanding the definition of 'grant', the issuing and use of a grant, extending the scope of a related criminal offence, creating three new such offences, creating a new administrative offence of political activity of an entrepreneurial legal entity, revising the time-frame for determining various administrative offences, regulating the activities and actions of individuals considered to resemble those of a political party, excluding certain persons from membership of a political party, monitoring the financial monitoring of a political party member, establishing a new offence of extremism against the constitutional order of Georgia and constituting the non-recognition of the constitutional order of Georgia or of constitutional bodies as an aggravating circumstance of liability for the commission of any crime.

The Opinion first outlines the effect of the changes that have been made by the amendments and then analyses the rationale claimed for adopting them. Thereafter, it assesses the compatibility of the amendments with relevant European standards before concluding with an overall evaluation of them.

The Opinion finds that the restrictions effected by the adoption of the Laws have a very serious impact on the rights to freedom of association and of expression, as well as of the benefit of the right to respect for private life and the ability to take part in legislative elections.

Furthermore, many of the provisions in the Laws do not fulfil the prescribed by law requirement for imposing any restrictions on rights guaranteed by the European Convention on Human Rights and there are serious grounds for doubting whether most of them have a legitimate aim.

Moreover, having regard to the scope of the restrictions and the consequences of non-compliance with requirements interfering with exercise of rights under the European Convention, it is not possible to regard any of the provisions, other than the offence of receipt of foreign funds by a political party, as necessary in a democratic society.

In the circumstances, the adoption of the Laws will further exacerbate the grave and unjustified damage that has already been caused to civil society in Georgia. Their adoption is inconsistent with a wide range of commitments that this member State of the Council of Europe has undertaken and is thus entirely inappropriate.

It would, therefore, be appropriate repeal the measures that have been adopted in the Laws, as well as to desist from any steps to enforce the implementation of the provisions previously addressed in the Opinions adopted in 2024 and 2025 by the Expert Council.

A. INTRODUCTION

1. This Opinion examines the compatibility with European standards of the provisions in amendments ("the Amendments") made to the Law of Georgia "On Grants", the Organic Law of Georgia "On Political Unions of Citizens", the Administrative Procedure Code of Georgia, the Code of Administrative Offences of Georgia, the Criminal Code of Georgia and the Organic Law of Georgia "On the State Audit Office" by six Laws ("the Laws"), which were submitted to the Parliament of Georgia on 21 January 2026 and then adopted with some revisions on 4 March 2026.[1].

2. The provisions in the Laws are concerned with expanding the definition of 'grant', the issuing and use of a grant, extending the scope of a related criminal offence, creating three new such offences, creating a new administrative offence of political activity of an entrepreneurial legal entity, revising the time-frame for determining various administrative offences, regulating the activities and actions of individuals considered to resemble those of a political party, excluding certain persons from membership of a political party, monitoring the financial monitoring of a political party member, establishing a new offence of extremism against the constitutional order of Georgia and constituting the non-recognition of the constitutional order of Georgia or of constitutional bodies as an aggravating circumstance of liability for the commission of any crime.

3. These provisions, by their nature, have potential implications for the exercise of the rights to freedom of association and of expression, as well as of the benefit of the right to respect for private life and the ability to take part in legislative elections.

4. The drafts submitted to the Parliament of Georgia for each of the Laws were accompanied by an Explanatory Notes, which portrayed their adoption as being variously necessary to protect and strengthen Georgia's sovereignty, to ensure fairness, transparency and equal participation in political processes and to protect political parties from foreign influence and external interference.

5. The drafts were submitted to the Parliament of Georgia by Georgian Dream, the ruling political party and there was no prior consultation with any State or non-state body or international organisation relating to the provisions in them.

6. The relevant European standards are to be found in the European Convention on Human Rights ("the ECHR"), Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe ("Recommendation CM/Rec(2007)14"), the Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making ("Recommendation on lobbying"), the Joint Guidelines on Freedom of Association of the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights ("the Joint Guidelines"), the Venice Commission's

[1] They were signed by the President the same day.

Updated Rule of Law Check List and the case law of the European Court of Human Rights ("the ECtHR").

7. The Opinion first outlines the effect of the changes that have been made by the Amendments and then analyses the rationale claimed for adopting them. Thereafter, it assesses the compatibility of the Amendments with relevant European standards before concluding with an overall evaluation of them.

8. The analysis in the Opinion is based on an unofficial translation of both the provisions in the Laws and the Explanatory Notes accompanying them.

B. THE EFFECT OF THE AMENDMENTS

9. The Amendments are essentially concerned with two issues, namely, the receipt of certain grants and the undertaking of political activity by certain natural or legal persons, which will be examined in turn.

Grants

10. Extensive changes have been made to the Law of Georgia "On Grants" by the Law of Georgia "On Amendments to the Law of Georgis 'On Grants'" through adding a category to which its provisions apply, defining in this context a grant recipient, making a procedure for the issuing of the new category of grants, establishing criminal liability for violation of the Law's requirements, amending the provisions for monitoring the issuance and receipt of grants without consent and making special provision for obtaining consent to use grants already received that have not been used before these changes were adopted.

11. These amendments add to ones made in 2025 to the Law of Georgia "On Grants" which had required approval by the Government for any issuance of foreign grants in Georgia and prohibited the acceptance of any such grant, entailing the commission of an administrative offence punishable by a fine.[2]

12. Related amendments have also been made concerning criminal liability by the Law of Georgia "On Amendments to the Criminal Code of Georgia".

13. Whereas the existing definition of grant[3] focuses on either objects having what are generally regarded as having a public benefit nature or ones provided or awarded by specified Georgian entities, the additional definition is concerned with different considerations.

[2] As to which, see the Opinion of the Venice Commission considering that the amendments lacked sufficient justification, clear refusal criteria, and effective safeguards, creating the potential for arbitrary enforcement.

[3] In Article 2.

14. In the first place, the term applies not only to "funds transferred in monetary or in-kind form" but also to technical assistance "in the form of sharing technologies, specialised knowledge, skills, expertise, services, and/or other forms of assistance" when this assistance is either provided by the recipient in exchange for such funds or that assistance is provided to it free of charge.[4]

15. Secondly, the source will have to be of a non-Georgian nature, i.e., coming from a citizen of another State or:

> an international charity, a humanitarian or any other public organisation (including the International Sports Association, Federation, Committee), or other international organisation, financial and loan institutions, as well as foreign governments or their representative offices, a foreign entrepreneurial (if a grant recipient is the State or the Government of Georgia) or a non-entrepreneurial (non-commercial entity.[5]

16. Thirdly, the funds or technical assistance will have to have an object, namely, that they are:

> used or may be used for activities carried out or to be carried out with the belief or intent to exert any influence on the Georgian government, state institutions, or any part of society, directed to the formation, implementation, or change of Georgia's domestic or foreign policy, as well as activities arising from the political or public interests, approaches, or relations of a foreign government or a foreign political party.

17. The potential recipients of a grant for the purpose of this definition are much narrower than the range of ones specified in Article 4, namely, just a citizen of Georgia, a person with a residence permit in Georgia, a Georgian legal entity and a legal entity of another State whose activities "substantially include engagement in issues related to Georgia", the latter being an entirely new category of recipient that has been introduced into Article 4.

18. For grants covered by this new definition, a separate procedure for their issuance is established. This entails the need for a written agreement between the parties, a written decision by the grantor if it falls within a list of specified bodies,[6] the consent of the Government of Georgia or an authorised body/person specified by it and the prior submission of the decision or draft agreement to the Government of Georgia or the authorised body/person that it has specified. Following such submission, it is possible for the Government of Georgia or the authorised body/person to request the submission of additional documentation. This procedure effectively duplicates the main elements of the procedure introduced into the Law as Article 5^1 through amendments adopted in 2025 for issuing grants by a foreign grant provider (donor).[7]

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[4] This definition of grant does not, however, apply to "technical assistance provided by an employee working in a foreign government or its representation, or in an international organization, as provided for in subparagraph 'a' of paragraph 1 of Article 3 of this Law, to that employer in exchange for funds transferred in monetary or in-kind form". As to sub-paragraph 'a', see the following paragraph of the text.

[5] Sub-paragraph 'a' of Article 3.1 of the Law of Georgia "On Grants".

[6] I.e., those specified in sub-paragraph 'a' of Article 3.1 of the Law of Georgia "On Grants".

[7] By the Law of Georgia No 496 of 16 April 2025 and the Law of Georgia No 663 of 12 June 2025.

19. Neither the existing Law nor the amendments to it indicate how the authorised body is to be specified by the Government of Georgia nor the basis on which the Government of Georgia or an authorised body/person specified by it should determine whether consent should be given for the issuance of any grant.

20. In addition, in the case of the receipt a legal entity of another State whose activities "substantially include engagement in issues related to Georgia" of a grant covered by the new definition, there is a need for this to have the consent of the Government of Georgia or the authorised body/person that it has specified. Such a requirement is thus seeking to proscribe activity that occurs entirely in another State and which may be lawful there.

21. Again, there is no specification as to the basis on which the giving of the consent required should occur.

22. Criminal liability for violation of the relevant requirements provided by the Law as a whole is established for the first time,[8] which applies to requirements in respect of all grants and not just those falling under the new definition. In addition, such liability is specifically provided for any issuance and/or receipt of funds transferred in monetary or in-kind form that are by nature a grant but are issued/received on the basis of a sham or fictitious transaction different from that defined by either the existing provision on the legal basis for issuing grants[9] or the new procedure.

23. Furthermore, provision is made to amend the existing Article 6^1 for the monitoring of the issuance and receipt of grants without consent to be by the State Audit Office ("the SAO") rather than the Anti-Corruption Bureau, with the addition of a requirement for the former to send all materials in its possession to the appropriate investigative body if it identifies an act containing signs of crime during its monitoring, as well as the addition of a provision for that body to conduct the investigation.

24. Notwithstanding this amendment, there will be no change to the provisions in the existing Article 6^1 that give extensive powers to obtain information for the purpose of monitoring the issuance and receipt of grants without consent.

25. There is also a revision of the existing provision in part 1 of Article 6^4 allowing for the imposition of a fine of double the amount of any grant received without consent. Thus, it is made clear that this provision applies to such receipt by a registered representative office, branch or division in Georgia of a legal entity of another State but not to a legal entity of another State whose activities "substantially include engagement in issues related to Georgia.

26. In addition, special provision is made regarding grants received before the amendments were adopted where these have not yet been used.

[8] There are already certain specific bases for such liability in the Law.

[9] I.e., Article 5.

27. Thus, a legal entity of another State whose activities "substantially include engagement in issues related to Georgia" is now obliged to apply for consent from the Government of Georgia or the authorised body/person that it has specified to use such a grant within a month of the adoption of the amendments to the Law and, if such consent is refused or a month has elapsed from the entry into force of those amendments, it is prohibited from using the grant to carry out activities on political issues related to Georgia with any such use leading to responsibility under the new part 4 of Article 319[1] of the Criminal Code of Georgia.

28. There is a similar requirement for any person provided for by the Law who has either received a grant that would not have needed consent from the Government of Georgia or the authorised body/person that it has specified before the entry into force of the amendments to the Law to make an application for such consent within a month of the amendments entering into force. After the lapse of that period or a refusal of consent, there is then a prohibition on using the grant with any such use leading to responsibility provided for by Georgian legislation.

29. Also, such requirements apply to persons who have received grants in violation of Georgian legislation and have not used them.

30. The related amendments to the Criminal Code of Georgian concern an addition to the existing offence of money laundering in Article 194[10] and the introduction of two entirely new sets of offences.

31. The addition to Article 194[10] makes additions both to the circumstances in which the commission of the money laundering offence is subjected to the enhanced punishment of nine to twelve years' imprisonment and to the list of Notes to this offence.

32. Thus, this enhanced punishment will apply to money laundering for the purpose of carrying out activities on political issues related to Georgia and the additional Note explains that such activities are those:

> carried out or to be carried out with the aim of exerting any influence on the authorities of Georgia, state institutions, or any part of the public, which are directed toward the formation, implementation, or change of the domestic or foreign policy of Georgia, as well as activities that derive from the political or public interests, approaches, or relations of the authorities of a foreign State or a foreign political party.

33. The new Article 319[1] will establish five offences.

34. The first offence relates to the direct or indirect receipt by a grant recipient of a foreign grant as without the requisite consent under the existing Article 5[1] of the Law

[10] I.e., "giving legal form to illicit and/or undocumented property (use, purchase, possession, conversion, transfer or other actions in connection with property) in order to conceal its illegal and/or undocumented origin or to assist another person in evading liability, as well as concealment or disguising of its genuine nature, source of origin, location, dislocation, movement, its title and/or of other rights related to it".

of Georgia "On Grants", as well as the use by the grant recipient of a foreign grant for carrying out activities on political issues related to Georgia for a purpose different from that for which consent had been given. Article 5[1] is not, however, concerned with giving consent relating to the carrying out of political activities and it is not clear whether there is an error of drafting or of translation.

35. The second offence relates to receipt of a grant covered by the definition set out above in paragraphs 14-16 without the requisite consent.

36. The third offence is the direct or indirect receipt or use without the requisite consent of a grant by a legal entity of another State whose activities substantially include engagement in issues related to Georgia.

37. The fourth offence is the receipt or use of funds transferred in monetary or in-kind form that are by nature a grant but are issued on the basis of a sham or fictitious transaction different from that defined by either the existing provision on the legal basis for issuing grants[11] or the new procedure.

38. The fifth offence concerns the direct or indirect transfer of money, securities, other property, property benefit or any other advantage to a citizen or legal entity of another State in exchange for carrying out activities on political issues related to Georgia.

39. Notes to these offences specify that activities on political issues related to Georgia are those with the object specified in paragraph 32 above and that the effect of Article 319[1] does not apply to a branch, representative office or department registered in Georgia of a legal entity of another State other than a legal entity of another State whose activities "substantially include engagement in issues related to Georgia.

40. Just a single offence is introduced by the new Article 319[2], namely, the direct or indirect receipt of foreign funds in the form of any type of donation by a political party registered in Georgia from a person who is not a citizen of Georgia, a legal entity registered outside the territory of Georgia and/or another type of association of persons, or from an entity that is part of the system of authorities of another State. There is no definition as to what constitutes a "donation".

41. The penalties for committing all of these offences range from community service for a term of three to five hundred hours to imprisonment for up to six years. However, a Note to the new Article 319[1] specifies that, for an action specified by it, a legal entity will be punished by a fine or by liquidation and a fine.

[11] I.e., Article 5.

Political activity

42. The provisions relating to political activity concern such activity by an entrepreneurial legal entity, the application of the norms established for independent candidates by the Organic Law of Georgia "Election Code of Georgia" to physical persons "with a declared political-party goal", the bar on certain persons from political party membership, the imposition of criminal liability where a political party receives any foreign funds, the monitoring of related financial activities and the establishment of a new offence of extremism against the constitutional order of Georgia together with the provision that the non-recognition of the constitutional order of Georgia or of constitutional bodies is to constitute an aggravating circumstance of liability for the commission of any crime.

43. Thus, the Law of Georgia "On Amendments to the Code of Administrative Offences of Georgia" now provides, in a new Article 153^{13}, for the imposition of an administrative penalty for the "carrying out publicly of such political activity by an entrepreneurial legal entity that is not related to the principal entrepreneurial activity of that legal entity". In addition, the Criminal Code of Georgia, through a new Article 355^{3}, provides for the imposition of criminal liability on a legal entity that has already been subjected to that administrative penalty for carrying out such activity.

44. For the purpose of this offence, "political activity" is to be considered as:

> Activities carried out or to be carried out with the aim of exerting any influence on the authorities of Georgia, state institutions, or any part of the public, which are directed toward the formation, implementation, or change of the domestic or foreign policy of Georgia, as well as activities that derive from the political or public interests, approaches, or relations of the authorities of a foreign State or a foreign political party.

45. Commission of this conduct penalty will, in the case of the administrative penalty, result in liability to a fine of GEL 20,000 (approximately EUR 6,250), with the commission of the offence being punishable by a fine, community service for a term of 300-500 hours or imprisonment for a term of up to six years. Provision is also made for the SAO to impose these penalties and for the relevant cases to be considered within seven days.

46. The other measures outlined above relating to political activity are established by the enactment of the Organic Law of Georgia "On Amendments to the Organic Law of Georgia "On Political Unions of Citizens"" and the Law of Georgia "On Amendments to the Criminal Code of Georgia".

47. Thus, the former modifies the references in the Organic Law relating to a person who has declared his/her electoral goal[12] and uses the related financial and other material resources to achieve that goal by a reference to "a person who has personally declared a party-political objective".

[12] Parts 3 and 4 of Article 1.

48. The Organic Law had previously referred to:

> A declared intention to stand for elections is a situation where a specific person's desire to stand for elections is evident. Such declaration shall be made publicly and be directed towards the formation of public opinion.[13]

49. By contrast, under the amendment, a person will simply be considered as being someone with a declared party-political objective if, not being registered as a political party, that person:

> by the nature of its activities and public actions, including participation in the formation and expression of the political will of citizens, substantially resembles a political party.

50. Thus, it will be possible to impute that a person has a party-political objective without that person necessarily having one.

51. The consequences of considering someone to be such a person will, as for the person who had declared his/her electoral goal, continue to be that the norms in the Organic Law relating to the legality and transparency of a party's financial activities are applicable to that person, as are those established for an independent candidate if that person is a physical person.

52. In addition, a person with a declared party-political objective rather than one with a declared electoral goal, will: become subject to the restrictions in the Organic Law on the source and amount of donations that can be received (as well as the requirements to submit information about them); be required to create a special fund for expenses incurred for the purpose of that goal; and become liable for the receipt of any prohibited donation, the failure to submit a declaration relating to a donation and the failure to correct a deficiency within the established time-frame.

53. All these restrictions will be effective from the moment a person is granted the status of a subject with a party-political objective, which may be granted by the SAO from the moment such a person manifests that objective. It is also provided that an appeal against any such grant will not suspend its execution but there is no indication as to the body to which an appeal will lie. Furthermore, there is no specification as to the procedure to be followed in granting a person the status of a subject with a party-political objective.

54. There will continue to be two exceptions to these restrictions.

55. In the first place, they should not be used against freedom of expression and pre-election campaigning. However, this is narrower than the previous version of the provision[14] as the inclusion also of "civic engagement" has been deleted.

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[13] Article 7^1.

[14] In part 6 of Article 26^1.

56. Secondly, the restrictions should only be applied for those actions which are related to the use of financial or other material or intangible resources to achieve electoral goals since the slightly modified purpose of the restrictions is to regulate the income and expenses related to the political goals of a party and a person with declared party-political objectives. As a consequence of the latter, it is specified that the restrictions:

> do not apply to economic/entrepreneurial activity, property rights, or other private legal rights and freedoms, provided that they are not related to a party-political objective and/or are not carried out for the purpose of circumventing the restrictions established by the legislation of Georgia.

57. However, whereas neither the Organic Law nor the Criminal Code of Georgia had previously attached any consequences to the failure to declare an electoral goal, the Law of Georgia "On Amendments to the Criminal Code of Georgia" has now made it an offence for a subject with a party-political objective who: has failed to submit a declaration; intentionally enters incomplete or incorrect data in such a declaration; or fails to rectify a deficiency in one.

58. There is, however, no indication as to which body the declaration is to be made or the form it should take.

59. The commission of the new offence in the first instance is punishable by a fine or community service for between 120 and 200 hours, with deprivation of the right to hold a position or pursue an activity for up to three years. In the case of committing such acts repeatedly, the penalties will be a fine, community service for a term of 200-300 hours or imprisonment for a term of up to four years.

60. Furthermore, the provisions in the Organic Law that were directed to a person with a declared electoral goal concerning the powers of the SAO to monitor finances,[15] transfer of prohibited donations to the Georgian state budget and imposition of consequential fines,[16] fines for failure to provide the SAO with requested information[17] and voluntary interviews with the SAO[18] have now been made applicable to a person with a declared party-political political objective.

61. In addition, for the purpose of monitoring the financial activities of a person with a declared party-political objective, the SAO is able to request personal data from a public institution, physical person, legal entity (including a payment service provider)

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[15] Article 34^1. Its role in this regard is conferred by the Organic Law of Georgia "On Amendments to the Organic Law of Georgia "On the State Audit Office"".

[16] Article 34^2.

[17] *Ibid*.

[18] Article 34^3. The Law of Georgia "On Amendments to the Administrative Procedure Code of Georgia" substitutes "person with a declared party-political objective" for "a person with a declared electoral goal" in the provision in Article 21^{110} authorising persons who may possess information necessary for the SAO to conduct monitoring of financial activities to be questioned before a magistrate. A failure to appear without a valid reason will lead to the imposition of a fine of GEL 5,000 (approximately EUR 1,500) but not relieve the person concerned from fulfilling the obligation to appear before the magistrate.

and other subject without any restriction other than matters covered by state secrets legislation.

62. The Organic Law has also now introduced a prohibition on membership of a political party for those persons who:

> have received income, in whole or in part, on the basis of an employment contract concluded with an organisation carrying out the interests of a foreign power.

63. A foreign power for the purposes of this prohibition is:

> - A subject that is part of the system of authorities of a foreign State;
> - A natural person who is not a citizen of Georgia;
> - A legal entity that is not established on the basis of the legislation of Georgia;
> - an organizational formation (including a foundation, association, corporation, union, or other type of organisation) or another type of association of persons that is established on the basis of the law of a foreign State and/or international law.

64. Furthermore, for the purposes of this prohibition, an organisation carrying out the interests of a foreign power is:

> a) a non-entrepreneurial body (non-commercial) legal entity that is not established by an administrative body, that is not a Georgian National Sports Federation as provided for by the Law of Georgia "On Sport" or a blood establishment provided for by the Law of Georgia "On the Quality and Safety of Human Blood and Its Components", and for which the source of more than 20% of the total income received during a calendar year is a foreign power;
> b) a broadcaster provided for by the Law of Georgia "On Broadcasting", whose source of more than 20% of the total non-commercial income received during a calendar year is a foreign power;
> c) a legal entity that, independently or jointly with another person, owns a printed mass media outlet operating in Georgia, and for which the source of more than 20% of the total non-commercial income received during a calendar year is a foreign power;
> d) a legal entity that, independently or jointly with another person, owns and/or uses an internet domain and/or internet hosting intended for an internet medium disseminating mass information in the state language of Georgia, and for whose source of more than 20% of the total non-commercial income received during a calendar year is a foreign power.

65. A prohibition on membership of a political party pursuant to these provisions will last for eight years from the calendar year in which the person concerned last received income from the relevant organisation concerned.

66. The decision to prohibit someone from membership of a political party is to be taken by the SAO. There is, however, no indication as to the procedure to be followed in taking such a decision. Although it will be possible to appeal against any such decision, this will not suspend its execution and there is no indication as to the body to which an appeal would lie.

67. The Organic Law of Georgia "On Political Unions of Citizens" had already prohibited a political party from receiving donations from a legal person and/or another type of

association of persons registered outside Georgia and from an entity within the authority system of another state.[19]

68. The Organic Law now imposes criminal liability on the leading person of any political party receiving "foreign funds". There is no definition of "the leading person" in the Organic Law before or following its amendment. Nor is there one for "foreign funds", which may or may not be the same as the donations that were already prohibited.

69. At the same time, the Law of Georgia "On Amendments to the Criminal Code of Georgia" has introduced an entirely new Article 319^1 into the Criminal Code of Georgia, which establishes an offence of the direct or indirect receipt of "foreign funds in the form of any type of donation by a political party registered in Georgia". The penalty for the offence is a fine, community service for a term of 300-500 hours or imprisonment for up to six years. However, there is no reference to the responsibility for this offence being imposed on its "leading official".

70. The Organic Law now also authorises the SAO to conduct monitoring of the financial activities of a party member for the purpose of establishing the facts relevant to termination of membership.

71. The new offence, introduced into the Criminal Code of Georgia as Article 316^1, of extremism against the constitutional order of Georgia is defined as:

> The systematic public calling by a citizen of Georgia or a stateless person having status in Georgia for the mass violation of the legislation of Georgia, for mass disobedience to the authorities of Georgia, or for the creation of alternative bodies to the authorities of Georgia, the arbitrary, public and systematic presentation by the same person of another person or of themselves as a representative of the authorities of Georgia, or other public and systematic actions committed by the same person, if any of the aforementioned actions provided for by this article are directed toward establishing a perception of the illegitimacy of the constitutional order of Georgia or of constitutional bodies and harm the interests of Georgia, or are directed toward establishing such a perception and create a real threat of harm to the interests of Georgia

72. There is no definition of "systematic public calling", "mass violation", "mass disobedience", "systematic presentation", "systematic actions" or "perception of the illegitimacy of the constitutional order of Georgia".

73. Persons committing this offence can be punished by a fine, community service for a term of four hundred to six hundred hours or imprisonment for up to three years, except legal entities who can be punished by a fine or by liquidation and a fine.

74. The new aggravating circumstance of liability, introduced as parts 3^2 and 3^3 of Article 53, for any crime motivated by the non-recognition of the constitutional order of Georgia or of constitutional bodies will entail the enhancement of the minimum term

[19] Article 26. Moreover, pursuant to part 2 of Article 34^2 receipt or concealment by a person with a declared party-political objective of a prohibited donation will result in the fining of the entity making it in the double amount of the prohibited donation.

of punishment involving imprisonment provided for the committed crime by at least 1 year.

75. There is no elaboration as to what "non-recognition of the constitutional order of Georgia or of constitutional bodies" entails.

C. THE RATIONALE

76. Various explanations for the adoption of the Laws are given in the Explanatory Notes that accompany them. While these explanations include the protection and strengthening of the sovereignty of Georgia and the need to secure transparency, there is also considerable emphasis placed on the criticism that has been made of previous legislative changes adopted by the Parliament of Georgia.

77. Thus, the Explanatory Note to the Law of Georgia "on Amendments to the Law of Georgia 'On Grants'" refers to such criticism as being "unfair and groundless", without further explanation.

78. It also refers to the failure of legal entities "in which foreign funding is mainly concentrated" having demonstratively and publicly refusing to fulfil obligations relating to that funding for the purpose of hiding it. This is a similar assertion to that previously made in the Explanatory Note for the Law of Georgia "Foreign Agents Registration Act" ("the 2025 Act") regarding the fact that the Law of Georgia "On Transparency of Foreign Influence" ("the 2024 Law") had failed "to adequately ensure the goal of transparency and the corresponding preventive function". Both the 2024 Law and the 2025 Act were the subject of previous Opinions adopted by the Expert Council ("the 2024 Opinion" and "the 2025 Opinion").

79. However, the Explanatory Note acknowledges the absence of any official input to support the necessity for the present measure and the only substantiation provided for them are unspecific statements by high-ranking officials representing the current United States administration that funds allocated to unidentified non-governmental organisations ("NGOs") "were being spent in violation of the law and for the purposes other than intended", including "exerting influence on the governments of various States and for change through violent means".

80. There is, therefore, no substantiation as to the latter assertions being a problem with respect to Georgian NGOs.

81. Moreover, there is no explanation as to why it is inappropriate for Georgian NGOs to attempt to influence the policies of the government of their country, let alone for entities outside the country to be able to express their views about such policies.

82. Furthermore, there is also no explanation as to why the measures adopted are likely to be more effective than those alleged not to have fulfilled.

83. The same points and omissions are made in the Explanatory Note to the Law of Georgia "On Amendments to the Criminal Code of Georgia"

84. This Explanatory Note does assert a need to impose criminal penalties for obligations previously imposed, namely, to obtain prior consent to receive a foreign grant and not to use such a grant for a purpose other than that specified in the grant agreement. However, there is no explanation as to why other measures cannot ensure the fulfilment of those obligations.

85. In addition, this Explanatory Note, referring to the criminalisation of the receipt of grants without the consent of the Government of Georgia by legal entities abroad whose activities substantially include engagement in issues related to Georgia is a justifiable intrusion in the sovereignty of another State in which such a receipt is lawful. Nor is there any explanation as to how such criminalisation would be enforced.

86. The criminalisation of fictious or sham transactions relating to grants and the payment by Georgian citizens and legal entities paying foreign individuals or entities to carry out activities on political issues in violation of Georgia's sovereignty are said to remedy gaps in the present law. However, there is no substantiation as to either such transactions or payments actually occurring.

87. In the Explanatory Note to the Organic Law of Georgia "On Amendments to the Organic Law of Georgia 'On Political Unions of Citizens'", it is stated that its measures have "the purpose of protecting state sovereignty, democratic governance and the independence of the political process", asserting that:

> A political party, as a voluntary, independent union of citizens established on a common ideological and organisational basis, must fundamentally consist of individuals who are not motivated by external interests that supersede or exist beyond the scope of Georgian statehood.

88. This assertion - which would seem to assume that drawing on experience from outside the country or from international standards necessarily means the individuals or legal entities concerned are being motivated by external interests where they receive funding from outside the country - is invoked to combat what is seen as "a realistic threat of political processes and decisions falling under foreign influence"

89. It is, therefore, invoked to justify exclusion of political party membership where there is "financial dependence on a foreign power".

90. Moreover, the change in terminology from "having a declared electoral goal" to "having a declared party-political objective" is said to be needed to ensure "comprehensive regulation of the matter" and to provide "a substantive clarification and expansion of legal regulation and increase its effectiveness".

91. There is, however, no explanation as to how the exercise of the right to freedom of expression will not be affected by the measures.

92. Also, there is no mention of transparency in connection with a party's financial activities, although this is something referred to in the relevant provisions being amended.

93. The Explanatory Note to the Law of Georgia "On Amendments to the Code of Administrative Offences" refers to a risk that the formation of political decisions being carried out under the influence of private economic interests rather than public ones as the justification for the restriction on the political activity of entrepreneurial legal entities that is not related to their principal entrepreneurial activity.

94. It is also stated that the adoption of a sanction for political activity that is not directly related to an entity's "primary entrepreneurial activity"

> will significantly increase transparency toward political processes and reduce the risk of entrepreneurial legal entities exerting disproportionate influence on political decisions through the use of financial and organisational resources.

95. There is, however, no indication of such a risk having been realised nor any explanation as to how it can be assessed what is and what is not directly related to a particular legal entity's entrepreneurial goals. Furthermore, there is no indication as to why the existing Law of Georgia "On Lobbying" or measures such as those proposed in the Recommendation on lobbying are inadequate to deal with the asserted risk.

96. Moreover, "primary" in respect of entrepreneurial activity is not necessarily as limited as being "directly related" to it.

97. The Explanatory Notes to the Laws of Georgia "On Amendments to the Administrative Procedure Code of Georgia" and "On Amending the Law of Georgia 'On Amending the Administrative Offences Code of Georgia'" and to the Organic Law of Georgia "On Amendments to the Organic Law of Georgia 'On the State Audit Office'" just state that the measures in them are a consequence of amendments in other Laws.

98. There is no discussion in the Explanatory Notes relating to the new offence of extremism against the constitutional order of Georgia or of the establishment of the non-recognition of the constitutional order of Georgia or constitutional bodies as a motivation for the commission of a crime constituting an aggravating circumstance of liability.

99. All the Explanatory Notes assert – without referring to any relevant standards or treaties - that the Laws do not contradict European Union law, Georgia's obligations related to its membership in international organisations or its bilateral and multilateral treaties and agreements.

100. Moreover, all the Explanatory Notes confirm that no account was taken of the experience of other countries in the implementation of laws similar laws when preparing what has become the Laws.

D. EVALUATION OF THE AMENDMENTS

Introduction

101. As already noted, the provisions in the Laws have implications for the enjoyment of a wide range of rights, namely, the exercise of the rights to freedom of association and of expression, as well as of the ability to take part in legislative elections.

102. All these rights are guaranteed by the ECHR, as well as being amplified by or elaborated in Recommendation CM/Rec(2007)14, the Joint Guidelines and the case law of the ECtHR.

103. Thus, restrictions on freedom of association can arise from restrictions affecting the ability to belong to a political party[20] and the access to funding from foreign sources[21]. Moreover, as the protection of opinions and the freedom to express them within the meaning of Article 10 of the ECHR is one of the objectives of the freedom of association enshrined in Article 11,[22] interference with the latter freedom will inevitably have implications for the exercise of the former one, as well as with the latter one.

104. Furthermore, insofar as an inability to be a member of a political party could affect the possibility of standing for election to the Parliament of Georgia, there is the potential of an interference with the right to stand for election under Article 3 of Protocol No. 1.[23]

105. Moreover, there will be an interference with right of respect to private life by compulsion to disclose personal data.[24]

106. All such restrictions on these rights can only be imposed where they are prescribed by law, have a legitimate aim and are necessary in a democratic society.

107. In addition, both Recommendation CM/Rec(2007)14[25]19 and the Joint Guidelines[26] require that NGOs such as those that will be affected by the Act's provisions should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation.

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[20] See, e.g., *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], no. 41340/98, 13 February 2003, at paras. 50 and 134.

[21] See, e.g., *Ecodefence and Others v. Russia*, no. 9988/13, 14 June 2022.

[22] See, e.g., *Parti nationaliste basque – Organisation régionale d'Iparralde v. France*, no. 71251/01, 7 June 2007, at para. 33.

[23] See, e.g., *Selahattin Demirtaş v. Turkey (No. 2)* [GC], no. 14305/17, 22 December 2020, at para. 386.

[24] See, e.g., *Z. v. Finland*, no. 22009/93, 25 February 1997.

[25] Para. 77.

[26] Principles 8 and 9 and para. 33 of the Explanatory Note to the Joint Guidelines.

108. Similarly, the Venice Commission's Updated Rule of Law Check List emphasises that key elements of lawmaking involve both the provision of the public with a meaningful opportunity to contribute to the legislative process and the adoption of an impact assessment before adopting legislation, especially as regards its impact on human rights.[27]

Prescribed by law

109. It is not sufficient for provisions to be included in legislation in order to be regarded as "prescribed by law".

110. Such provisions must also be shaped by precision in the scope of powers conferred, i.e., the absence of any unfettered discretion allowing arbitrary interference with rights and freedoms.

111. Such unfettered discretion is built into several of the provisions in the Draft Laws.

112. Thus, many of the terms used in them are so broad that there will inevitably be uncertainty as to whether they are applicable to the activities of particular NGOs and thus whether there is a requirement to comply with the obligations that it establishes.

113. This is, for example, so in the Law of Georgia "On Amendments to the Law of Georgia 'On Grants' as regards: "whose activities substantially include engagement in on issues related to Georgia"; "activities arising from the political or public interests, approaches, or relations of a foreign government or a foreign political party"; and "other forms of assistance" in addition to the specific forms of technical assistance mentioned in it.

114. These problematic phrases also figure in the Law of Georgia "On Amendments to the Criminal Code of Georgia" and the Law of Georgia "On Amendments to the Code of Administrative Offences of Georgia".

115. Furthermore, the notion of whether activities can be regarded as being "carried out or are to be carried out with the belief or intent to exert any influence on the Georgian government, state institutions, or any part of society" is extremely open-ended and could be applied in an entirely subjective manner regardless of the actuality of the situation and/or the intention of those concerned.

116. In addition, there is scope for considerable dispute as to what might be a legal entity's "primary" entrepreneurial activity for the purpose of the prohibition in the Law of Georgia "On Amendments to the Code of Administrative Offences of Georgia". This scope for dispute is likely to be exacerbated by the fact that "primary" in respect

[27] Para. 34.

of entrepreneurial activity is not necessarily as limited as being "directly related" to it, as used in the Explanatory Note regarding the prohibition.

117. There is also uncertainty regarding the issue of making a declaration of having a party-political party objective, the failure to do so being made an offence in the Law of Georgia "On Amendments to the Criminal Code of Georgia" as to when such a declaration should be made or the form it should take.

118. Moreover, this uncertainty is compounded by the stipulations in the Organic Law of Georgia "On Amendments to the Organic Law of Georgia 'On Political Unions of Citizens'" that resemblance of activities and public actions to those of a political party will lead to a person being "considered a person with a declared party-political objective" while also providing for that status to be granted by the SAO. This is also a matter concern for the provisions in other Laws referring to persons with a declared party-political objective.

119. In addition, the width of the definition of a "foreign power" for the purpose of the bar on membership of a political party in the Organic Law of Georgia "On Amendments to the Organic Law of Georgia 'On Political Unions of Citizens'" – which covers not just the government system in a foreign State but any individual or entity in it – clearly allows for arbitrary application of such a measure.

120. The concerns about the lack of precision and thus foreseeability are equally applicable to the terms used in both the new offence of extremism against the constitutional order of Georgia and the aggravating circumstance of liability provided for the commission of crimes motivated by the non-recognition of the constitutional order of Georgia or of constitutional bodies. Moreover, the assertion that such non-recognition is the motive for committing a crime will leave too much discretion to those prosecuting and adjudicating cases.

121. Thus, the lack of precision permeates the formulation of key aspects of the provisions in the Laws and, given their interconnectedness, the requirements which are imposed by it cannot be regarded as sufficiently prescribed by law for the purpose of restricting rights and freedoms under the ECHR and compliance with other relevant European standards.

Legitimate aim

122. The aims pursued by the Laws are essentially fourfold: control over foreign influence; transparency; preventing criticism considered to be unfair; and ensuring the implementation of obligations previously imposed. The first three of these are clearly interconnected.

123. The ECtHR has accepted, in principle, that the objective of increasing the transparency with regard to the funding of NGOs may correspond to the legitimate aim of protection of public order.[28]

124. A similar view might well be taken by the ECtHR of the regulation of the receipt by NGOs of funding from sources outside the country, such as through a requirement of consent and associated measures to ensure that this is obtained.[29]

125. However, such a view would not seem appropriate for a requirement of entities outside Georgia to obtain consent for the receipt of grants on account of the nature of their activities, particularly as it is directed to ones occurring in that country and seems to be concerned with criticism seen by it as "unfounded". As such, the object of restricting the freedom of expression of the entities concerned would not fall within any of the legitimate aims permitted for the purposes of Article 10 of the ECHR.[30]

126. Moreover, having regard to the fact that certain measures adopted with respect to grants received by entities within Georgia are intended to secure the fulfilment of obligations found in the 2024 and 2025 Opinions not to be necessary in a democratic society, it is questionable that these could now be regarded as having a legitimate aim for the purpose of Article 11 of the ECHR, even if the focus of the ECtHR is more likely to be that they do not pass that necessity test.

127. On the other hand, the prohibition on the receipt of foreign funding by political parties could well be considered by the ECtHR to have the legitimate aim of protecting the integrity of the democratic process.[31]

128. Furthermore, the regulation of lobbying by entrepreneurial legal entities could well also be seen as having a legitimate aim permitted for the purposes of Article 10 of the ECHR, especially where this involves fulfilment of certain requirements to ensure transparency, such as those envisaged in the Recommendation on lobbying,.

129. However, it is difficult to see how a substantive restriction on what such entities can say about policies and laws that relate to their lawful activities, even if not their primary ones, and there is no concern about preventing unfair competition or misleading the public,[32] could be regarded as having any legitimate aim for the purposes of that provision.

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[28] See *Ecodefence and Others v. Russia*, no. 9988/13, 14 June 2022, at para. 122.

[29] See *Bradshaw and Others v. United Kingdom*, no. 15653/22, 22 July 2025, in which the ECtHR emphasised that "while States should not remain passive when faced with evidence that their democratic processes are under threat (see, *mutatis mutandis*, *Refah Partisi (the Welfare Party) and Others* (cited above, § 102)), they must be accorded a wide margin of appreciation in the choice of means to be adopted in order to counter such threats" (para. 162).

[30] See, e.g., *Morawiec v. Poland*, no. 46238/20, 5 February 2026.

[31] See *Zdanoka v. Latvia* [GC], no. 58278/00, 16 March 2003, at paras. 119-135.

[32] *Cf. Krone Verlag GmbH & Co. KG v. Austria (No. 3)*, no. 39069/97, 11 December 2003, at para. 31.

130. Indeed, the only justification advanced for the restriction in the accompanying Explanatory Note is that the impermissibility of political parties receiving donations from a legal entity registered in Georgia has been taken into account with a view to prevent the disproportionate influence of entrepreneurial entities on political processes. However, there is no connection between the giving of donations to political parties and the expression of views on political issues of concern to such entrepreneurial entities, something that everyone is entitled to do.[33]

131. Finally, while there might be grounds for regarding a bar on certain individuals from standing for election as having the legitimate aim of protecting the State's independence, democratic order and national security,[34] it is highly unlikely that a bar on mere membership of a political party could be viewed as having a legitimate aim for the purposes of Article 11 of the ECHR solely on account of just 20% of the funding of a person's employer coming from a foreign source.[35]

132. No explanation has been provided for the new offence of extremism against the constitutional order of Georgia and the aggravating circumstance of liability provided for the commission of crimes motivated by the non-recognition of the constitutional order of Georgia or of constitutional bodies. As a result, it is not possible to assess whether these might be pursuing an aim permitted under the ECHR.

133. Thus, only certain aspects of the provisions might be regarded as having a legitimate aim for the purpose of imposing permitted restrictions on rights under the ECHR.

134. In any event, regardless of whether there can be said to be a legitimate aim for the provisions in the Act, the provisions in it must still be shown to be necessary in a democratic society in order to prevent a finding of a violation of the rights affected.[36]

Necessary in a democratic society

135. For the purpose of determining whether the measures in the Act can be regarded as necessary in a democratic society, the impact of them on the exercise of freedom of association and the other rights affected thus needs to be evaluated to establish whether this can be regarded as proportionate to any legitimate aim being pursued and whether the reasons adduced by the national authorities to justify it are "relevant and sufficient".

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[33] See, e.g., *Bowman v. United Kingdom* [GC], no. 24839/94, 19 February 1998.

[34] See *Zdanoka v. Latvia* [GC], no. 58278/00, 16 March 2003, at para. 118 and *Tănase v. Moldova* [GC], no. 7/08, 27 April 2010, at paras. 164-169.

[35] *Cf.*. the situation in *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], no. 41340/98, 13 February 2003, in which there was a ban on political party membership for the leaders of a party on account of their anti-democratic activities.

[36] See, e.g., *Parti nationaliste basque – Organisation régionale d'Iparralde v. France*, no. 71251/01, 7 June 2007, at paras. 40-42

136. In this connection, the scope of the restrictions that are applicable to the grants falling within the new definition are problematic in several respects.

137. In the first place, there is an unsupported assumption that all grants relating to influence on the policies adopted in Georgia without the consent of its Government could not be for entirely legitimate objectives of both the recipients and the donors and that activities that would be funded by such grants will not be ones which those receiving them are entitled under Georgian and international law to pursue on their own initiative.

138. Indeed, as the financial support and other forms of assistance and inspiration received by many governments themselves from international and foreign sources demonstrate, this can be, and generally is, with a view to advancing interests which that State considers important. Receipt of such income, support and assistance by a government does not in itself mean that it is pursuing the interests of the foreign sources and that is no less true for NGOs, such as those that will be subject to the prohibition on receiving grants from another State and a citizen or legal entity of another State.

139. Secondly, the requirement that a legal entity of another State must obtain the consent of the Government of Georgia or a person or body authorised by it in order to receive a grant where the activities of that entity substantially include engagement in issues related to Georgia is not only an attempt to interfere with the right of such an entity to seek funding for its activities without any substantiation of harm to Georgia but it is also an unjustified legislative overreach, effectively entailing an interference with the sovereignty of the State where such an entity is established. Indeed, the breadth of the requirement for consent is such that it will affect not only disagreement with the policies of another State (i.e., Georgia) – something that merits protection in any democratic State – but also academic research on Georgia which has no concern with current political issues.

140. Thirdly, the effective retrospective application of the consent requirement to grants that have already been received in accordance with the applicable legislation of Georgia in circumstances where there is no basis for considering that the activities to be undertaken with the grant concerned are in any way contrary to Georgian law is clearly excessive and unwarranted, rendering worthless the legitimate planning of the recipients concerned.

141. Fourthly, the extension of the definition of grants to any form of technical assistance, whether received or provided by a Georgian citizen or legal entity and by a person with a residence permit in Georgia is not only imprecise but is such that any exchange of ideas connected with Georgian policies, regardless of whether it takes place in a public context, is proscribed in absence of the consent of the Government or a person or body authorised by it. Thus, this measure necessarily constrains legitimate social exchanges that are the lifeblood of democracy.

142. Fifthly, the requirement of submitting all documents relating to an agreement for the provision of a grant for which consent is required does not embody any safeguards for the legitimate privacy interests of those who may be affected, whether or not actually parties to the agreement concerned.

143. Sixthly, the penalties that have been established for the related offences included in the Criminal Code, including imprisonment for up to six years and liquidation of the legal entity concerned, are clearly substantial. Indeed, they could be much greater than the fines which led the ECtHR to consider non-compliance with requirements in Russia's foreign agent legislation to be excessive. This led it to conclude that they could not be regarded as proportionate to the legitimate aim pursued.[37]

144. Seventhly, even if aspects of the amendments could be said to have a legitimate aim, there is no actual substantiation of the threat which the activities are alleged to pose and no consideration of whether there might be less draconian means of addressing it.

145. Finally, the amendments extend still further ones previously made to the Law of Georgia "On Grants" concerning the need for consent to receive grants, which the Venice Commission has already concluded are "excessive and risk producing a serious chilling effect on civil freedoms".

146. Each of these points taken individually, and certainly cumulatively, leaves no room for doubt that the implementation of the amendments relating to grants cannot be regarded as necessary in a democratic society and will thus, in addition to the provisions that are insufficiently prescribed by law, give rise to significant violations of the rights to freedom of association, freedom of expression and respect for private life.

147. The new offence of "carrying out publicly of such political activity by an entrepreneurial legal entity that is not related to its primary entrepreneurial activity" involves a purported determination of what is or is not of relevance for a legal entity for its entrepreneurial activity.

148. There is no substantiation of any problem that has been posed by the political activities of entrepreneurial legal entities but just an abstract assertion of the need to prevent their disproportionate influence.

149. Furthermore, no account is taken of the efficacy or otherwise of existing provisions with respect to lobbying.

150. In any event, there is no clear basis for determining what might be directly related to entrepreneurial goals of the legal entities affected and non-compliance

[37] *Ecodefence and Others v. Russia*, no. 9988/13, 14 June 2022, at para.185.

with the prohibition, which could in these circumstances be applied in an arbitrary manner and could give rise to a liability to quite significant fines.

151. Furthermore, the provision for the rapid determination of cases where it is alleged that particular political activity is not directly related to a legal entity's primary entrepreneurial activity is unlikely to allow for sufficient time to marshal and consider the potentially complex issues likely to be involved in such cases.

152. In the circumstances, the new offence will give rise to a restriction on the right to freedom of expression that could not be regarded as necessary in a democratic society.

153. The other restrictions relating to political activity that are in the Amendments are equally problematic.

154. Thus, the application of the norms established for an independent candidate to a person who has supposedly "personally declared a party-political objective", together with the associated restrictions and offences, will constitute restrictions on the exercise of the right to freedom of expression by individuals and legal entities, as well as of their right to freedom of association and of respect for private life, without any genuine substantiation of the need for them.

155. In the first place, the various measures will amount to treating those who pursue political objectives as effectively seeking election when that is clearly not their intention. As already noted, the ECtHR has recognised that those expressing views about politics and those seeking election have the right to freedom of expression and subjecting them to the rules governing election expenses is not necessary in a democratic society.[38]

156. Moreover, the ECtHR has made it clear that it would be contrary to the right to freedom of association to label any goals which are in some way related to the normal functioning of a democratic society as "political" so that these could only be pursued by political parties.[39] Treating persons who do not want to seek election as if they were doing so would be all the more unjustified as an interference with this right, as well as that of the right to freedom of expression.

157. Furthermore, the adverse impact on these rights cannot be regarded as mitigated by the two sets of exceptions as the omission from one previously existing, namely, "civic engagement" will clearly constrain activity outside of elections and the stipulation that economic/entrepreneurial activities, property rights or other private law rights are not to be affected by the regulation of income and expenses is of questionable scope given the breadth of the activities that could be regarded as related to a party-political objective.

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[38] See, e.g., *Bowman v. United Kingdom* [GC], no. 24839/94, 19 February 1998.

[39] *Zhechev v. Bulgaria*, no. 57045/00, 21 June 2007, at para. 55

158. In addition, the penalties that can be imposed for non-compliance with the three requirements that are applicable to a subject with a party-political objective who fails to submit a declaration, intentionally enters incomplete or incorrect data in such a declaration or fails to rectify a deficiency in one could be substantial as it will be possible for an individual to be deprived of the right to hold a position or pursue an activity for up to three years.

159. Finally, the arrangements whereby the SAO can obtain personal data for the purpose of monitoring the financial activities of a person considered to have a declared party-political objective contain no safeguards to ensure observance of the right to respect for private life.

160. As a result of these considerations, both individually and cumulatively, the measures relating to the consideration of a person as having a declared political-party goal are clearly excessive in their impact on the rights under Articles 8, 10 and 11 of the ECHR and so cannot be regarded as necessary in a democratic society.

161. The bar on membership of a political party on account of just 20% of the funding of the organisations employing those affected coming from a foreign source is attributed to the assertion that those organisations were pursuing the interests of a foreign power. As the 2025 Opinion made clear,[40] such an assertion is unwarranted and the relevant Explanatory Note does not provide any further evidence of any individuals being motivated by external interests, let alone all those potentially made subject to this bar.

162. That lack of substantiation – which is in marked contrast to a similar bar for anti-democratic activities by the leaders of a political party in Türkiye[41] and the restriction imposed by Belgium on a person who had collaborated with the Nazi occupiers of that country[42] - would in itself be sufficient for a finding that the bar cannot be regarded as necessary in a democratic society as a restriction on the rights to freedom of association and to stand for election.

163. However, even if there were some genuine substantiation, the length of the bar – namely, eight years – would undoubtedly be regarded as excessive by the ECtHR given the absence of any requirement for a specific act hostile to the legitimate interests of Georgia by the persons made subject to it. Certainly, this duration contrasts unfavourably with five-year prohibition for the actual anti-democratic activities found to have been perpetrated by those affected in the case against Türkiye.

164. As a result, the interference with the rights under Article 11 of the ECHR and Article 3 of Protocol No. 1 cannot be regarded as necessary in a democratic society.

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[40] At paras. 136-137.

[41] *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], no. 41340/98, 13 February 2003.

[42] The proceedings in respect of this were struck out of the ECtHR's list in *De Becker v. Belgium*, no. 214/56, 27 March 1962, following a modification to the legislation concerned.

165. Finally, the new offence of extremism against the constitutional order of Georgia and the aggravating circumstance of liability provided for the commission of crimes motivated by the non-recognition of the constitutional order of Georgia or of constitutional bodies are both highly problematic.

166. The new offence is not only broadly drafted, allowing for its arbitrary application, and accompanied by substantial penalties but, insofar as any activities envisaged in it are ones already covered by existing offences, there is no substantiation for the creation of an additional basis for criminal liability.

167. This is equally applicable to the new aggravating circumstance of liability introduced for a supposed motivation for committing crimes.

168. Furthermore, as regards the new offence, its scope necessarily captures the expression of entirely legitimate political dissent and of genuinely felt criticism of the behaviour of public authorities, which is a right to be enjoyed in a democracy.

169. Thus, neither this new offence nor the new aggravating circumstance of liability can be regarded as necessary in a democratic society.

E. CONCLUSION

170. The restrictions effected by the adoption of the Laws will have a very serious impact on the exercise of right to freedom of association and several other guaranteed rights.

171. Many of the provisions in the Laws do not fulfil the prescribed by law requirement for imposing any restrictions on rights guaranteed by the ECHR.

172. Furthermore, there are serious grounds for doubting whether most of the provisions in the Laws have a legitimate aim.

173. Moreover, having regard to the scope of the restrictions and the consequences of non-compliance with requirements interfering with exercise of rights under the ECHR, it is not possible to regard any of them, other than the offence of receipt of foreign funds by a political party, as necessary in a democratic society.

174. In the circumstances, the adoption of the Laws will further exacerbate the grave and unjustified damage that has already been caused to civil society in Georgia. Their adoption is inconsistent with a wide range of commitments that this member State of the Council of Europe has undertaken and is thus entirely inappropriate.

175. It would, therefore, be appropriate to repeal the amendments that have been effected by the adoption of the Laws, as well as to desist from any steps to enforce the implementation of the provisions previously addressed in the 2024 and 2025 Opinions.