Ministry of Foreign Affairs of Georgia

Comments of the Georgian Side on the Memorandum of Commissioner for Human Rights (CoE) with particular emphasis on Internally Displaced Persons and the Occupied Territories of Georgia

Visit to the Occupation Line and Fulfilment of the Commitment

The Georgian side welcomes the visit of the Council of Europe Commissioner for Human Rights, Michael O'Flaherty, to the occupation line (at the village of Odzisi) and his meeting with internally displaced persons (IDPs) in the Tserovani settlement during his April 2026 visit. Following the previous visit in January 2025, where a visit to the occupation line was not on the agenda and thus not included in the 2025 Memorandum, the Commissioner committed to visiting the occupation line in the future. The Georgian side appreciates the fulfilment of this important commitment, which allowed the Commissioner to directly engage with the human rights situation of persons affected by the occupation of Abkhazia and the Tskhinvali region.

Acknowledgement of State Efforts

The Georgian side welcomes the Commissioner's public acknowledgement of the efforts made by the Georgian authorities to assist people living in and displaced from the occupied territories. This includes providing free healthcare, education, housing, and integration support. The Georgian side also appreciates the Commissioner's strong support for the right of IDPs to return to their homes in safety and dignity, as well as for their right to freedom of movement across the occupation lines.

Access for International Human Rights Mechanisms to the Occupied Territories

While noting the footnote in the current Memorandum indicating that this issue falls outside its immediate scope, the Georgian side emphasizes that it is crucial for the Commissioner to explicitly call for the immediate and unhindered access of Council of Europe human rights mechanisms to the occupied territories in his future reports and memorandums.

As communicated during meetings since January 2025, human rights monitoring on the ground is of vital importance. However, the occupying power, the Russian Federation, consistently prevents international observers from entering these regions and continues to manipulate the issue.

In this context, the Georgian side reiterates that protecting human rights in the occupied territories must not be treated as a political matter; it is a clear humanitarian and legal obligation. This is especially urgent given that Russia's "effective control" over these territories is a legally established reality, confirmed by multiple landmark judgments of the European Court of Human Rights (ECtHR) in interstate cases (such as Georgia v. Russian Federation).

Conclusion

The Georgian side remains fully committed to close cooperation with the Commissioner. We trust that his pledge to keep these critical human rights issues at the forefront of his work will lead to concrete international steps to pressure the occupying power to grant full access to Council of Europe human rights mechanisms in Georgia's Abkhazia and Tskhinvali regions.

Ministry of Internal Affairs of Georgia

Information within the competence of the Ministry of Internal Affairs of Georgia in response to the Memorandum on accountability of law enforcement and freedoms of assembly, association and expression in Georgia

§15

Recommendations

…"ensure a thorough, independent and transparent inquiry into the use of water cannons containing chemical substances against protesters, in line with the 2020 UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, with the participation of victims and civil society and public disclosure of the findings without further delay;

adopt the 2020 UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;"

Comment from the Ministry of Internal Affairs (MIA):

The legislation in force in Georgia is in full compliance with international standards. In Georgia, the expression of peaceful protest is fully guaranteed both by legislation and practice. The MIA, as the agency responsible for law and order in the country, ensures the constitutional right of citizens to peaceful assembly and manifestation. A gathering protected by law must be non-violent and meet the criterion of legality: it must not restrict the rights of others, and participants must not commit illegal acts.

Only in the event that rally participants violate the law is the police authorized to use proportional measures, including special means.

The Law of Georgia "on Police," as well as relevant subordinate acts, meticulously defines the scope of the police's right to use special means.

According to Article 31 of the Law "on Police" (the right to use coercive measures), to ensure the fulfillment of the functions assigned to the police, a police officer is authorized to use coercive measures proportionally, only in case of necessity, and with an intensity that ensures the achievement of a legal goal. The type and intensity of a coercive measure are determined by taking into account the specific situation, the nature of the violation, and the individual characteristics of the violator. At the same time, when using a coercive measure, a police officer must attempt to ensure that the damage inflicted is minimal and proportional. According to Article 33 of the same law (use of special means), a police officer uses passive and active special means to protect public safety and law and order. Active special means deprive a person of the ability to resist a police officer for a short period of time and/or assist the police officer in performing police functions. Such special means include: handcuffs and other restraining devices, special batons, tear gas, pepper spray, acoustic devices, non-lethal weapons (including non-lethal projectiles), light-sound devices for psychological impact, means for the forced stopping of transport, barrier-breaking equipment, water cannons, armored vehicles and other special transport vehicles, special paint, service dogs and service horses, electric shock devices, and restraining nets.

It should also be noted that according to Paragraph 3 of Article 31 of the Law of Georgia "on Police," a police officer is obliged to warn a person in advance about the use of physical force and special means and to give them a reasonable period to comply with a lawful demand. Consequently, it is noteworthy that the Ministry of Internal Affairs begins using special means provided for by law only after multiple warnings and to prevent violent actions. Furthermore, special means are used by the police only in cases of extreme necessity, in full compliance with the principle of proportionality, and with an intensity that is necessary to achieve a legitimate, legal goal.

Regarding the issue of the use of mass control agents by the MIA:
It must be emphasized that the Ministry of Internal Affairs of Georgia has not purchased, does not possess, and has never used prohibited chemical substances. During the rallies, the police used only special means permitted by law. The use of the mentioned means was proportional and served a legitimate public purpose: maintaining law and order and ensuring public safety.

During the violent rallies that took place at the end of November and the beginning of December 2024, the Ministry of Internal Affairs of Georgia used tear gas, a mass control agent (RCA) – "chlorobenzylidene malononitrile." This means used by the agency is approved by the police forces of many countries, including European states.

Thus, the approach and legislative logic existing in Georgia fully replicate the European experience, where the maintenance of public order and the prevention of violence are the primary obligations of the state.

Additionally, it is noteworthy that in November-December 2024, January 2025, and the subsequent period, no reports of injuries or poisoning caused by chemical substances were received by medical institutions or emergency services. Speculation on this issue began only a year later, following the publication of a story prepared by the BBC.

§54
Recommendations
„...*review, repeal or substantially amend the changes to the Law on Assemblies and Demonstrations, the Administrative Offences Code and the Criminal Code, adopted in October and December 2025, to ensure compliance with Article 11 ECHR and relevant international standards, in particular by:*
protecting spontaneous assemblies and removing blanket restrictions on peaceful protest, while ensuring that any restrictions are strictly necessary, proportionate and subject to effective judicial review;

repealing provisions introducing disproportionate administrative detention and criminal liability for repeated protest-related offences, and limiting deprivation of liberty in the context of assemblies to a last resort, applied on an individualized basis;“

Comment from the Ministry of Internal Affairs (MIA):
It is noteworthy that the freedom of expression protected by the Constitution is not absolute -according to international standards and the case law of the European Court, legal protection only extends to peaceful assembly. When a protest exceeds the bounds of expression and takes on a systematic character that paralyzes the rights of others (for example, freedom of movement or economic activity), the state is obligated to restore balance.

The 2025 legislative amendments represent a response to challenges where the right to protest was frequently used to paralyze state institutions and disrupt public order. The proportionality of sanctions must be assessed not in isolation, but in the context of the damage the violation inflicts on the country's stability.

Punishability of road blocking:
For 565 days, protest participants have been granted full freedom of assembly, yet this right is frequently abused. Specifically, there is artificial blocking of roads, which is punishable by law. The punishability of road blocking has been regulated since 2009, and over these 16 years, it has not faced negative assessments from international organizations. The law prohibits the artificial blocking of the carriageway, including with cars or various structures, unless the number of participants requires it. In cases of small crowds, based on public interests, the municipality or the Government of Georgia has the right to make a decision to restore traffic.

According to the decision of the Constitutional Court of Georgia of April 18, 2011, the Constitution does not protect the intentional blocking of streets. When expressing an opinion, the intentional blocking of a street leads to an unjustified restriction of the rights of others and turns persons not participating in the rally into an instrument for achieving the demonstrators' goals. The Constitution does not grant participants the right to restrict the freedom of others for their own purposes, and the government is authorized to intervene in the process to maintain a reasonable balance between rights.

Since certain individuals are grossly violating the law, the state's response to public safety challenges is necessary. In the case of "Makarashvili and Others v. Georgia," the European Court of Human Rights established that blocking the entrances to Parliament and sitting in the middle of the road goes beyond the limits of minor disorder and constitutes a breach of public order. According to the interpretation of the Strasbourg Court, the state has a wide margin of appreciation to curb such actions, including by establishing criminal penalties. Furthermore, in the case of "Galstyan v. Armenia," the court noted that administrative detention in itself does not violate the Convention, provided that the person's procedural guarantees are respected.

Administrative detention and extension of detention periods:
Detention is an extreme form of police measure, and the police resort to it only after exhausting other measures, to stop a violation of the law or for the purpose of identifying a person. Every action of the police is legitimate, proportional, and subject to judicial control.

The Ministry of Internal Affairs acts in compliance with the law and ensures the rights of the detainees:

- **Immediate notification:** Upon detention, the person is clearly informed of the grounds and their rights (hiring a lawyer, informing relatives). Statements made before these explanations have no legal force.
- **Minors:** When detaining them, the police notify a parent or legal representative at the first available opportunity.
- **Timeframes:** A detained person is presented to the court within no later than 24 hours (if necessary, the period may be extended only once, for another 24 hours, for a total of no more than 48 hours).

It is worth noting the European Court of Human Rights' deliberation on administrative detentions based on the Code of Administrative Offenses in the case *Makarashvili and Others v. Georgia*, in which the court established that the practice of administrative detention in Georgia is in compliance with international standards. While reviewing the procedures related to the administrative offense, the court noted that the finding of the plaintiffs as offenders was based not only on the testimony of the police officers but also on video recordings submitted as evidence. Based on these circumstances, the court determined that the right to a fair trial was not violated during the administrative proceedings.

As for the increase in the term of administrative detention (from 15 to 60 days), it should be viewed as a deterrent factor. Under conditions of low sanctions, there were frequent instances of repeated and intentional violation of the law, as existing fines or short-term detention could not ensure the correction of the offender. The severity of the punishment indicates that the state takes a principled approach to the rule of law. If a person is informed in advance of the expected harsh punishment and still violates the law, this is their conscious choice and not "arbitrary detention."

Furthermore, it should be noted that if an administrative penalty does not have an effect on a person and they systematically continue to violate the law, the action loses its "administrative" character and acquires a high degree of public danger, which requires a criminal law response.

The Prosecution Service of Georgia

Guideline on Granting a Victim of Ill-treatment Access to Criminal Case Materials and the Provision of Information

To ensure the effective investigation of cases of ill-treatment, the compliance of procedural guidance quality with international standards and the victim's access to justice, by Order of the Prosecutor General of Georgia dated 24 October 2025, the Guideline on Granting a Victim of Ill-treatment Access to Criminal Case Materials and the Provision of Information was approved for prosecutors and investigators of the Prosecution Service of Georgia.

The purpose of the Guideline is to ensure the involvement of crime victims in the criminal investigation process and the provision of comprehensive information regarding the progress of the investigation, in order to conduct an effective, objective and impartial investigation.

With the aim of establishing uniform practice within the Prosecution Service of Georgia, the Guideline set out the rules for informing victims of ill-treatment about the progress of the investigation, for granting access to criminal case materials, as well as the application of special protection measures.

The Guideline underscores that a victim of ill-treatment shall be informed of the initiation of the investigation and of the right to access criminal case materials at the earliest possible opportunity, and in any event no later than during communication concerning the victim's interview and/or during the interview itself. The investigator shall inform the victim of ill-treatment of their rights during the victim's first interview. The investigator shall further explain that the victim is entitled to review the case materials and to receive, at any time, information regarding the progress of the investigation and any decisions made over the course of the criminal proceedings. The victim shall additionally be informed that they have the right, at any time, to express their views in relation to investigative and procedural actions that have been conducted or are yet to be conducted.

The Guideline emphasizes the importance of preventing secondary victimization. With a view to eliminating such risk, where a victim of ill-treatment is granted access to case materials or is provided with information, the victim shall be notified in advance prior to being presented with that part of the case materials which contains images/fottage or information of a psychologically distressing nature to the victim and shall only be given access to such materials upon their request.

Case materials shall be presented to the victim for review in the form of originals or copies. If a victim familiarizes themselves with the case materials, the investigator shall draw up a record reflecting information on the investigative and procedural actions conducted in the criminal case, as well as the victim's review of the criminal case materials. After the victim has reviewed the case materials, the investigator must provide the victim with the opportunity to express their views regarding the progress of the investigation and future investigative or procedural actions, and their position shall be documented in the case review record.

Within a reasonable period following the termination of a criminal investigation, the victim of ill-treatment shall be provided, in writing, with information regarding the termination of the criminal case and the right to access the case materials. The victim of ill-treatment shall be granted access to the case files in a manner that protects the interests of the investigation, personal data, and the victim's legitimate interests.

The Guideline further highlights the possibility of applying special protection measures to the victim, an associated person, or a close relative, where the relevant conditions are met and upon the request of the victim. Special protection measures shall be applied solely with the prior consent of the victim, their close relative, or a person associated with the victim.

The Guideline places particular emphasis on the protection of the victim's personal data, their physical safety, and their involvement in the investigation in order to ensure effective investigation of ill-treatment cases.

Guideline on the Effective Investigation of Ill-Treatment Cases and the Exercise of Procedural Supervision by the Prosecutor

To ensure the effective investigation of incidents of ill-treatment and the quality of procedural guidance thereof complies with international standards, in 2026, the Human Rights Department of the Office of the Prosecutor General of Georgia developed a Guideline “On the Effective Investigation of Ill-Treatment Cases and the Exercise of Procedural Guidance Thereof,” addressed to prosecutors and investigators of the Prosecution Service of Georgia.

The Guideline addresses the definition of the legal framework governing ill-treatment, the obligation to conduct an investigation (including a re-investigation) into such incidents, and the core criteria for the effectiveness of an investigation as established by the European Court of Human Rights within the framework of Article 3 (prohibition of torture) of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Guideline places particular emphasis on the prohibition of torture as a fundamental achievement of civilization grounded in respect for human dignity. Unlike other fundamental rights and freedoms enshrined in universal and regional human rights instruments, this principle the prohibition of torture and inhuman treatment – admits of no exceptions, including in times of emergency. Even in situations as challenging as combating terrorism and organized crime, international human rights instruments prohibit in absolute terms the torture and inhuman or degrading treatment or punishment of any person, irrespective of the act that person may have committed.

The majority of international human rights treaties in force (for instance, the International Covenant on Civil and Political Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the African Charter on Human and Peoples’ Rights) contain a prohibition of torture and other forms of ill-treatment, but do not provide a definition thereof. Nevertheless, the regional and international supervisory bodies responsible for the interpretation and implementation of those treaties have, through their decisions, established definitions of torture and other forms of ill-treatment. Accordingly, a dedicated chapter of the

Guideline addresses the conceptual definition of ill-treatment, the alignment of the constituent offences of ill-treatment – torture, inhuman treatment, and degrading treatment with the standards established by international treaties, their interpretations, and the case law of the European Court of Human Rights, as well as the criteria for distinguishing between those forms.

The Guideline pays particular attention to the positive obligation of the state to conduct an effective investigation into incidents of torture and other forms of ill-treatment. The document reflects the spirit of the well-established case law of the European Court of Human Rights, according to which an investigation must satisfy a number of criteria in order to be considered effective: the investigation must be independent and impartial, prompt, adequate, and thorough. Furthermore, victims and their family members must be involved in the investigative process, and it must be possible to subject the investigation to public scrutiny, which entails keeping the public adequately informed.

The Guideline addresses the requirement of independence at both institutional and individual levels. Independence is a decisive factor for the effectiveness of an investigation and for maintaining the confidence of alleged victims and the wider public. Accordingly, the persons responsible for and conducting the investigation must not belong to the same institution whose conduct is the subject of that investigation.

The Convention for the Protection of Human Rights and Fundamental Freedoms does not require that the persons and bodies responsible for an investigation enjoy absolute independence. It requires that the investigation be sufficiently independent of the persons and institution implicated. The adequacy of the degree of independence depends upon all the circumstances of a given case, which are individual to each case.

In accordance with the Guideline, an investigation must be conducted promptly, since evidence may lose its probative value or become impossible to recover after a certain period of time. Consistent with the standard of the European Court of Human Rights, the Guideline draws attention to a number of specific considerations: the time within which a complaint was responded to, when the investigation commenced and within what period the principal investigative actions were carried out, and how long the investigation lasted.

The Guideline recognizes the adequate conduct of investigative measures as one of the criteria of an effective investigation.[1] The investigation must be capable of establishing the facts and, where necessary, identifying and punishing the responsible persons. It must equally be capable of determining whether the force used by law enforcement officers was justified.

A prerequisite of an effective investigation is that it is thorough. All factual circumstances of the case must be established, together with any systemic failures that gave rise to the violation of the individual's rights. The securing of relevant evidence is essential: this includes, for example, the identification and interviewing of alleged victims, defendants, and eyewitnesses; the examination of the crime scene; the

[1] Guide on Article 3 of the European Convention on Human Rights — Prohibition of torture, Council of Europe / European Court of Human Rights, First edition, August 31, 2022, § 29.

securing of physical evidence; and the collection of forensic and medical evidence by qualified specialists. Evidence must be assessed rigorously, consistently, and objectively.[2]

The Guideline places particular emphasis on the importance of public scrutiny of the investigation and on the involvement of the victim and/or their family members in the investigative process. The document provides that the victim, as well as the victim's successor to the extent necessary for the protection of their legitimate interests, must participate in all criminal proceedings.

The document takes account of the criticism expressed by the European Court of Human Rights in decisions delivered at various points in time regarding shortcomings in the participation of the victim in criminal proceedings specifically, that in certain cases, the investigation was not sufficiently accessible to the victim or did not afford an adequate degree of public scrutiny.[3]

For the purpose of ensuring the victim's effective participation in the investigation, the Guideline, alongside the guidance issued to prosecutors and investigators of the Prosecution Service, cross-refers to the Guideline on granting a Victim of Ill-treatment Access to Criminal Case Materials and the Provision of Information, approved by Order of the Prosecutor General of Georgia dated October 24, 2025.

With a view to the practical implementation of the criteria for the effectiveness of an investigation into ill-treatment established by the European Court of Human Rights within the framework of Article 3 (prohibition of torture) of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Guideline provides a comprehensive review of recent significant judgments of the European Court of Human Rights delivered against Georgia - **"Tsaava and Others v. Georgia"[4] and the "Tsintsabadze Group" cases.**

The review examines both the factual circumstances of each case and the criticism directed at the state concerning the implementation of standards for the effective investigation of incidents of ill-treatment.

Starting from July 1, 2025, the investigative authority of the Prosecutor's Office includes offenses provided for by the relevant article of the Criminal Code of Georgia, which are related to violations of the European Convention on Human Rights and Fundamental Freedoms or its Additional Protocol, as established by a final judgment of the European Court of Human Rights.

The Guideline addresses the standard established by the Committee of Ministers of the Council of Europe that domestic legal systems must contain the possibility of re-opening proceedings, as well as an analysis of specific judgments of the European Court of Human Rights and of the Committee of Ministers pertaining to the conduct of re-investigations.

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[2] M. Szonert Binienda, Standards of Investigation Under Article 2 of the European Convention on Human Rights and Investigations of Incidents of Historic Significance, Law and Administration in Post-Soviet Europe, Vol. I (VII)/2020, pp. 34–42, at p. 35

[3] Guide on Article 3 of the European Convention on Human Rights — Prohibition of torture, Council of Europe / European Court of Human Rights, 31 August 2022, § 31.

[4] Tsaava and Others v. Georgia, Applications no. 13186/20 and 4 others, May 7, 2024

The Guideline further encompasses the elements of the offences provided for under the Criminal Code of Georgia constituting torture, degrading or inhuman treatment or punishment, exceeding official authority, coercion to give an explanation, statement, or report, as well as the coercion of a person detained in a penitentiary institution or a custodial institution, together with issues pertaining to the legal classification of acts under those articles.

The document endorses the sufficiently clear standard established by universal and regional human rights supervisory bodies, according to which, where an act and/or a set of facts gives rise to a reasonable suspicion of the presence of elements of torture in the conduct of a law enforcement officer, the investigation and criminal prosecution must be conducted under the specific article of the Criminal Code that provides for criminal liability for torture, rather than for a lesser offence.

Freedom of expression

Effective prosecutorial oversight of crimes committed against journalists is a priority for the Prosecutor's Office of Georgia. In 2025, by the order of the General Prosecutor of Georgia, the guideline "on effective procedural guidance in cases of unlawful interference with journalists' activities and violence against journalists" was approved. The guideline analyzes international standards, best practices, and case law for the protection of journalists, so that when investigating cases of unlawful interference with the professional activities of journalists and violent crimes against them, the prosecutor's procedural guidance is effective and compatible with international principles and standards in the field of human rights protection.

Since 1 July 2025, the investigative mandate from the Special Investigation Service (SIS) has transferred to the Prosecutor's Office of Georgia on the cases concerning unlawful interference with the professional activities of journalists. The Investigative divisions of the Prosecutor's Office respond promptly to any incident of interference with journalistic work and initiate investigations without delay.

Journalist victims during the protest rallies in 2024-2025

48 journalists/cameramen were recognized as victims for crimes committed against them during the protest rallies held in 2024-2025, out of which 45 journalists were granted victim status under Article 154 of the Criminal Code of Georgia and 3 journalists were recognized as victims under Article 333 §3 "b" of the Criminal Code of Georgia. Criminal prosecution was initiated against 9 individuals for illegal interference in the professional activities of journalists under Article 154 of the Criminal Code of Georgia.

Ill-treatment

Summary of investigations:

Investigative Divisions of Prosecution Service of Georgia are currently investigating criminal cases of the alleged facts of exceeding official powers committed by employees of the Ministry of Internal Affairs of Georgia using violence against the participants of the protest and unlawful interference with journalists' professional activities that occurred in 2024-2025. Following the legislative amendments, on July 1, 2025, criminal investigations were transferred from the Special Investigation Service to the

Investigation Divisions of the Prosecution Service and investigative and procedural actions have been actively carried out since, namely:

More than thousand witnesses have been interviewed, including potential victims of violence, employees of the Ministry of Internal Affairs and other persons relevant to the case. Potential victims of violence were subjected to forensic medical examination, a number of examination reports are received and attached to the criminal cases. The number of conclusions of the examinations has not yet been received. Upon the court ruling, more than 27 hundred hours of video recordings from surveillance cameras have been requested from public and private entities. Within the framework of the criminal cases, **181 persons have been granted a victim status, out of which 149 persons were granted a victim status on the alleged facts of ill treatment.**

State Audit Office of Georgia

Comments of the State Audit Office (the SAO) On the Memorandum on Accountability of Law Enforcement and Freedoms of Assembly, Association and Expression in Georgia, Issued by the Council of Europe Commissioner for Human Rights

Paragraphs 29-31 of the Memorandum allege that GEOFARA has a stigmatizing effect on civil society and envisages pervasive administrative control which goes against the ECHR standards. In this regard, the case of Ecodefence and Others v. Russia is cited as a reference.

On 1 April 2025, the Parliament of Georgia adopted the Law of Georgia - "Foreign Agents Registration Act" (as referred to in the Memorandum - GEOFARA), which entered into force on 31 May 2025. The law constitutes an important step towards strengthening transparency and accountability. The GEOFARA is an exact copy of the United States Foreign Agents Registration Act, both in terms of its substantive provisions and its administration and enforcement mechanisms. In particular, the administration and enforcement procedures of the GEOFARA are based on Title 28 of the U.S. Code of Federal Regulations (28 CFR) – "Administration and Enforcement of the Foreign Agents Registration Act". Furthermore, in order to ensure the effective implementation of the law, a dedicated website (https://fara.sao.ge/) was established, fully mirroring the structure and content of the U.S. Department of Justice's FARA website (https://www.justice.gov/nsd-fara), while the registration forms used on the Georgian platform are copies of the corresponding U.S. forms.

In the course of implementation of the law, the respective bodies (initially ACB and since 2 March 2026 - the State Audit Office of Georgia *(see below)*) study and rely on the practice of the United States. The purpose is not to enforce the law in a strict or punitive manner, but rather to ensure that the process is carried out in close cooperation with all interested parties. It should be noted that, to date, no natural or legal person has been fined or subjected to any other sanction under GEOFARA. It is also underlined that neither the ACB nor the State Audit Office had/have the authority to conduct investigations or undertake any criminal proceedings in the course of implementation of GEOFARA.

For this reason, the SAO cannot share the concerns raised in the Memorandum that the GEOFARA envisages pervasive administrative control comparable to the circumstances as examined by the ECHR in *Ecodefence and Others v. Russia*, where the violations found by the ECHR were largely based on the manner in which the law was interpreted and implemented *(see paragraphs 96-100, 104, 107-112, 118)*.

Additionally, assertion that the term "agent of a foreign principal" carries a stigmatizing effect violating ECHR standards is legally and factually incorrect. The term is used in its technical, legal sense and carries no inherent moral or political condemnation. In Georgian legal system, this term is used as a functional descriptor of a fiduciary relationship. For instance, the Maritime Code of Georgia specifically regulates the professional status of "Recognized Agent" - as a person and/or organization, which, on the basis of a written agreement signed with the Agency, represents the Agency in the relations with ship-owners. Georgian National Library further defines "agent" as *"a legal or natural person who acts in the name, at the expense, and upon the instruction of another person (the principal), and who also* *concludes transactions with third parties. […] A representative (authorized person) of a state, institution, or organization"*.[5]

Furthermore, under GEOFARA the status of an *"agent of a foreign principal"* has both, temporal and contextual limitation. In particular, <u>it cannot be extended indefinitely and it does not cover every aspect of the agent's activities</u>, since *(a)* GEOFARA envisages termination of such status (see for example Article 5 of GEOFARA and Article 8 of the Rule on Administration and Enforcement of GEOFARA) and *(b)* an agent of a foreign principal is only obliged to identify oneself as such while carrying out the activities within the scope of GEOFARA (see for example Article 4 of GEOFARA).

Thus, the label signifies a specific professional standing and a legitimate commercial link rather than any "lack of loyalty" to the State.

Paragraphs 38-39 of the Memorandum claim that formal proceedings initiated by the ACB since June 2025 before its abolition raised significant concerns, including on account of requesting sensitive personal information.

The proceedings referred to in the aforementioned paragraphs of the Memorandum underwent judicial supervision. In particular, the Tbilisi City Court granted the motion on information request filed by the ACB. This decision was further upheld by the Tbilisi Court of Appeal. Judicial review <u>is one of the legal safeguards present in domestic legislation</u>. The domestic court shall make a decision within 48 hours after the submission of the motion by the State Audit Office. <u>**The motion shall be substantiated. It shall indicate the grounds and purpose of the request for information, and the period and volume of the information to be requested**</u>. If the motion is granted, the court decision shall indicate the grounds and purpose of the request for information, the period and volume of the information to be requested, and the term of validity of the said decision (see Article 6 (4) of the Law of Georgia on State Audit Office).

Further, even after receiving the sensitive information, its processing shall be exercised in accordance with the Law of Georgia "On Personal Data Protection". Noteworthy, the State Audit Office is the primary oversight agency for personal data protection. As to the ACB, before its dissolution, the Law of Georgia "On Fight Against Corruption" contained the specific clause prescribing the following: *"The Anti-Corruption Bureau shall exercise its powers* <u>***in compliance with the requirements established by the Law of Georgia on Personal Data Protection and the Code on the Rights of the Child***</u>*. The Anti-Corruption Bureau shall have the right, in order to exercise its powers, to request from a public institution, natural person, legal person (including a payment service provider), or another entity the necessary information, including personal data of a special category, other personal data and information containing a secret (except for a state secret provided for by the legislation of Georgia). All the entities that will be required to submit this information to the Anti-Corruption Bureau shall submit the said information available to them to the Anti-Corruption Bureau"* (paragraph 2^1 to the Article 20^{15} of the Law of Georgia "On Fight Against Corruption", as applicable at the material time).

[5] See: http://www.nplg.gov.ge/gwdict/index.php?a=term&d=6&t=13693

Thus, concerns on sensitive data protection inquiries, mentioned in the Memorandum, are unsubstantiated.

Final Remarks

As noted above, the recent legislative amendments of 17 December 2025 - effective from 2 March 2026, transferred all preventive anti-corruption functions, including the mandate of implementation of GEOFARA and the Law of Georgia on Grants from the ACB to the State Audit Office of Georgia. By virtue of the same amendments the SAO also inherited the mandate of the Personal Data Protection Service. Additionally, since 15 May 2026, enforcement of the Law of Georgia on Transparency of Foreign Influence was also included in the authority of the State Audit Office.

It is hereby underlined that the State Audit Office is Constitutionally independent body. In particular, pursuant to Article 69 of the Constitution of Georgia, the SAO is independent in its activity and is accountable to Parliament. It is headed by the Auditor General, who is elected by a majority of the total number of Members of Parliament for a five-year term upon nomination by the Chairperson of Parliament. The Organic Law of Georgia "On the State Audit Office" further establishes it as the supreme body of State financial and economic control, enjoying full operational, financial, budgetary, functional and organisational independence.[6] In particular, according to Article 3 of the Organic Law, the SAO is independent in its activities and is subject only to the law. Any interference with or control over its activities, or requests for reports concerning its operations, are strictly prohibited except as expressly provided by law. Similarly, it is impermissible to exert political pressure upon the authority or to undertake any action that could compromise its independence.

The independence of the Auditor General is further safeguarded by law. The Auditor General may be subjected to criminal prosecution, detention, arrest, or search only with the consent of the Parliament of Georgia, except in cases of being caught in the act of committing a crime, which must be immediately reported to Parliament. In addition, the Auditor General may be removed from office only by a decision of Parliament in accordance with the Constitution of Georgia, and the law strictly defines the limited grounds for the early termination of the mandate.

Since most of the preventive functions of the Anti-Corruption Bureau and the mandate of Personal Data Protection Service were transferred to the State Audit Office and added to its existing mandate, the number of SAO employees increased by 100 compared to the previous year, in accordance with the Law of Georgia on the State Budget for 2026 (from 341 in 2025 to 441 in 2026). Along with the increase in the number of employees, the budget of the State Audit Office also grew significantly. In particular, the budget for 2025 was set at 25,279,000 GEL, while for 2026 it was determined at 40,690,000 GEL.[7] At the same time, remuneration expenses increased from 20,395,000 GEL in 2025 to 33,005,000 GEL in 2026.

These amendments are fully in line with GRECO's reasoning as articulated in paragraph 67 of the Evaluation Report, where it highlighted the following: *"there is <u>no lack of bodies dealing with anti-</u>*

[6] Article 3, Organic Law of Georgia on State Audit Office, LHG, 1, 15/01/2009.
[7] See, https://matsne.gov.ge/ka/document/view/6701007?publication=0

corruption issues in Georgia […]", its important that *"[the ACB's] action does not duplicate, but rather ensures holistic coordination with, and adds value to, other structures already in place in the anti-corruption arena".*[8] Further, the Venice Commission, while assessing the independence of the ACB, looked at the following factors: its legal basis, institutional placement, appointment and removal of the director, selection and recruitment of staff, budget and fiscal autonomy, and accountability and transparency. In this regard, The Venice Commission urged *"that the appointment and dismissal of heads of anti-corruption bodies be made by Parliament, rather than the government, as increased involvement of Parliament furthers the democratic principle".*[9]

For the reasons indicated above the State Audit Office respectfully challenges the conclusions made in the Memorandum.

Ministry of Justice of Georgia

[8] available at: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680b0d354

[9] OPINION ON THE PROVISIONS OF THE LAW ON THE FIGHT AGAINST CORRUPTION CONCERNING THE ANTI-CORRUPTION BUREAU Adopted by the Venice Commission at its 137th Plenary Session (Venice, 15-16 December 2023), para. 25; available at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)046-e

According to the Commissioner's memorandum, recent legislative amendments in Georgia concerning the rights to assembly, freedom of association, and freedom of expression, as well as certain actions by state institutions, are said to be inconsistent with international human rights law.

It should be noted that the majority of the legislative changes and state actions mentioned in the report have not been challenged before the European Court of Human Rights or other international judicial bodies. Complaints related to Georgia's Law on Transparency of Foreign Influence and the Foreign Agents Registration Act are currently pending before the Strasbourg Court.

Accordingly, the compatibility of these amendments with the European Convention on Human Rights will be evaluated by the Strasbourg Court decision, based on evidence and legal assessment.

Cabinet of the Chairman of the Parliament of Georgia

1. Position on the Commissioner's assessment of the legislative amendments made to Georgian legislation concerning assemblies

According to the interpretation repeatedly given by the European Court of Human Rights, including in the case of MAKARASHVILI AND OTHERS v. GEORGIA,[10] which the Commissioner also mentions several times in his memorandum, the intentional failure by the organizers to abide the rules regulating assemblies and the structuring of a demonstration, or of part of it, in such a way as to cause disruption to ordinary life and other activities to a degree exceeding that which is inevitable in the circumstances constitutes conduct which cannot enjoy the same privileged protection under the Convention as political speech or debate on questions of public interest or the peaceful manifestation of opinions on such matters. On the contrary, the Court considers that the Contracting States enjoy a wide margin of appreciation in their assessment of the necessity of taking measures to restrict such conduct (§86). According to the Court's established case-law, the intentional serious disruption, by demonstrators, to ordinary life and to the activities lawfully carried out by others, where such disruption was more significant than that caused by the normal exercise of the right of peaceful assembly in a public place, might be considered a "reprehensible act" within the meaning of the Court's case-law. Such behavior might therefore justify the imposition of penalties, **<u>even of a criminal nature</u>** (§88).

The recent legislative amendments made to the Law of Georgia on Assemblies and Manifestations, the Code of Administrative Offences of Georgia, and the Criminal Code of Georgia, by which certain issues relating to assemblies were regulated, are consistent precisely with the above-mentioned firmly established case-law of the European Court of Human Rights. The recent legislative amendments, based on the case-law established by the European Court of Human Rights, ensure, through the establishment of a fair balance, both the protection of the freedom of assembly of participants in assemblies held in compliance with Georgian legislation and the protection of other persons whose rights may be infringed by an assembly held in violation of Georgian legislation. Against the background of the above-mentioned case-law of the European Court of Human Rights, it is surprising that the Commissioner's memorandum presents the issue as though, during an assembly, only the participants in the assembly have rights and as though those persons whose rights may be infringed as a result of an assembly held by participants in violation of Georgian legislation should not be protected. Equally surprising, and lacking any factual basis, is the Commissioner's assessment and opinion that the recent amendments made to Georgian legislation concerning assemblies have a "chilling effect". The groundlessness of this assessment is also confirmed by the easily verifiable fact that, as the participants in the assemblies themselves publicly state, demonstrations have been taking place in Tbilisi for several hundred days in recent times. If the legislation had a "chilling effect", it would simply be impossible for assemblies to be held for such a long period.

In the memorandum, the Commissioner notes, with a negative connotation, that under a recent legislative amendment made to Georgian legislation, an obligation of prior notification was introduced where an assembly or manifestation is held in a place where pedestrians may move. In reality, the obligation to notify the relevant authority in advance in the event of holding an assembly or manifestation in a place where pedestrians may move has been provided for by the supreme law of

[10] https://hudoc.echr.coe.int/?i=001-218940

Georgia, namely the Constitution of Georgia, since 1995. Its purpose is to ensure that, during an assembly or manifestation, the relevant State authority protects the rights of other persons, including the right to freedom of movement, who are not participating in the assembly or manifestation. Accordingly, the Commissioner's assessment in this regard is not only inaccurate but also legally unfounded.

The Commissioner criticizes the rule introduced by a recent legislative amendment requiring the relevant person to notify the relevant authority in advance even in the case of a spontaneous assembly. In order to justify his criticism in this respect, the Commissioner refers to the 2023 decision of the Constitutional Court of Georgia. It must be stated unequivocally that the Commissioner's assessment is not only legally unfounded but also factually inaccurate. In particular, in the said 2023 decision,[11] the Constitutional Court of Georgia expressly stated that the obligation to notify the relevant authority must also exist in the case of a spontaneous assembly. According to the Constitutional Court, not every instance of a spontaneous assembly automatically excludes the need or possibility of prior notification of the relevant authority. The imposition of a notification obligation on the organizers of an assembly is a responsibility and duty accompanying the exercise of the right. The fulfilment of this duty and a responsible attitude constitute a precondition for reducing the risks of restricting the rights of others and causing damage (II-§45). Accordingly, the Commissioner's reliance on the said decision of the Constitutional Court of Georgia to justify his criticism of the prior notification rule in the case of spontaneous assemblies is simply illogical and factually inaccurate, since, according to the Constitutional Court of Georgia, the obligation of prior notification may also exist in the case of a spontaneous assembly. The introduction of an obligation to notify the relevant authorities in advance within the appropriate time limit in the case of a spontaneous assembly serves to ensure the protection of the rights of other persons who are not participating in the assembly or manifestation. The State is also obliged to ensure the protection of the rights of these persons. Accordingly, the Commissioner's criticism of this regulation is legally groundless as well.

The Commissioner criticizes the recent legislative amendments and states that these amendments prohibited the use of sidewalks during assemblies. It must be stated clearly that this assessment is also devoid of any factual or legal basis. In reality, the recent legislative amendment prohibited the artificial blocking of a sidewalk where this is not required by the small number of participants in the assembly or manifestation. If the number of participants in an assembly or manifestation is large and it is impossible to hold the assembly or manifestation without blocking the sidewalk, the participants in the assembly or manifestation may fully occupy the sidewalk and no liability will be imposed on them for this. Accordingly, the Commissioner's assessment that the recent legislative amendment allegedly prohibited the use of sidewalks during an assembly or manifestation does not correspond to reality. Moreover, the prohibition of the artificial blocking of sidewalks serves to protect the rights of other persons who are not participating in the assembly or manifestation. By preventing the artificial blocking of sidewalks, the State ensures the effective protection of the rights of these persons.

2. Position on the Commissioner's assessment of the legislative amendments made to Georgian legislation concerning freedom of association and freedom of expression

[11] https://constcourt.ge/ka/judicial-acts?legal=16052

In his memorandum, the Commissioner criticizes the TFI Law and the GEOFARA Law and expresses the opinion that these laws cause the stigmatization of the relevant organizations. The Commissioner's assessment regarding stigmatization is unfounded and devoid of any legal basis, as is confirmed by the firmly established case-law of the European Court of Human Rights. In particular, the European Court of Human Rights has examined the issue of the stigmatization of a person arising from the use of a term, among other cases, in the following case.

In the case of ECODEFENCE AND OTHERS v. RUSSIA,[12] the European Court of Human Rights considered the term "agent" to be stigmatizing due to the simultaneous existence of the following two circumstances: (1) because of the historical background, the term "agent" was perceived negatively by Russian society; and (2) the term "agent" was interpreted contrary to its internationally recognized definition. In particular, a person could be deemed an "agent" regardless of whether he or she was acting on the instructions of another person.

It must be emphasized clearly that the GEOFARA Law and the TFI Law differ in every respect from Russian legislation. Specifically, under the GEOFARA Law, "agent" is interpreted in accordance with its international definition; that is, under the GEOFARA Law, an "agent" is a person who acts on the instructions of another person, whereas the term "agent" is not used at all in the TFI Law.

Accordingly, since under the GEOFARA Law the term "agent" is interpreted in accordance with internationally accepted practice, and since "agent" is not mentioned at all in the TFI Law, it is absurd to claim that these laws have a stigmatizing effect. The Commissioner does not take into account the fact that, pursuant to the requirements of the TFI Law and the GEOFARA Law, numerous organizations have already registered in the relevant register. It is interesting why the Commissioner does not mention this fact in his memorandum. If the terms used in these laws truly have a stigmatizing effect, as the Commissioner claims, then why did hundreds of organizations register in the relevant register precisely under these terms?

In addition to the allegedly stigmatizing nature of the TFI Law and the GEOFARA Law, the Commissioner also states in his memorandum that these laws allegedly caused obstruction to the activities of various organizations. In this regard, it should be noted that if these laws truly hinder the activities of the relevant organizations, then it is interesting why, when lodging applications before the European Court of Human Rights, the relevant organizations did not request the suspension of the application of these laws to them, as the applicants did in the above-mentioned case against Russia. It should be noted that in that case the European Court of Human Rights granted the applicants' request because it considered that the law in force in Russia indeed irreparably hindered the activities of the applicant organizations. It must also be emphasized that, in case of Georgia, after examining the applications submitted by various organizations and the challenged legislation, the European Court of Human Rights refused, on its own initiative, to suspend the application of the law to the applicants, although it clearly had the power to do so under Rule 39(A) of the Rules of Court. The fact is that there is no real basis whatsoever for concluding that the TFI Law and the GEOFARA Law obstruct the activities of the relevant organizations. In reaching such a conclusion, the Commissioner relies only on

[12] https://hudoc.echr.coe.int/?i=001-217751

the biased statements of the relevant organizations and fails to take into account the specific factual circumstances mentioned above.

As regards the recent legislative amendments made to the Law of Georgia on Grants, this amendment is based on one simple principle: namely, given the need to respect and protect Georgia's sovereignty, where foreign money is spent on political issues related to Georgia, it is necessary for the receipt of such funds to obtain prior consent of the Government of Georgia. It must be emphasized that this legislative amendment did not prohibit the receipt of foreign funding for the purpose of carrying out political activity related to Georgia. The receipt of such funding simply requires the prior consent of the Government of Georgia. In his memorandum, the Commissioner does not specify why obtaining prior consent from the Government of Georgia obstructs the activities of the relevant organizations, especially considering that, as he himself notes in his memorandum, in 2025 the Government of Georgia granted consent for the receipt of more than EUR 11 million in foreign funding. It must also be emphasized that, in the process of obtaining prior consent from the Government for the receipt of foreign funding, if the relevant organization considers that the Government of Georgia unlawfully refused to grant permission, that organization has the right to challenge the Government's refusal and to apply to a national court to protect its interests, the independence of which has been confirmed by numerous judgments of the European Court of Human Rights.

In addition to the above, in his memorandum the Commissioner discusses the convictions of opposition politicians who committed crimes and, in this context, refers to the PACE draft Resolution of 21 May 2026, in which the Georgian authorities are called upon to put an end to allegedly politically motivated criminal prosecutions. It must be emphasized that attempts to discredit the national courts are not new for Georgia. Numerous international organizations and international politicians of various ranks have stated in the past, in relation to a number of cases examined by Georgia's national courts, that the justice administered by Georgia's national courts was politically motivated. However, after these cases were examined by the European Court of Human Rights, notwithstanding the statements made at the international level, the European Court of Human Rights clearly established that the justice administered by Georgia's national courts was compatible with the European Convention on Human Rights. The following cases confirm this: RUSTAVI 2 BROADCASTING COMPANY LTD AND OTHERS v. GEORGIA;[13] AKHALAIA v. GEORGIA;[14] UGULAVA v. GEORGIA;[15] JAPARIDZE v. GEORGIA;[16] MELIA v. GEORGIA;[17] SAAKASHVILI v. GEORGIA.[18] In the present situation, we are dealing with exactly the same situation: namely, there is not a single piece of evidence that politically motivated justice was administered in relation to the relevant politicians, yet the Commissioner still assumes that justice was carried out on political grounds by Georgian courts.

In his memorandum, the Commissioner also criticizes the legislative amendment made to the Organic Law on the Constitutional Court concerning the prohibition of political parties and, in this context, also mentions the claim lodged with the Constitutional Court of Georgia concerning the prohibition of

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[13] https://hudoc.echr.coe.int/?i=001-194445;
[14] https://hudoc.echr.coe.int/?i=001-194445;
[15] https://hudoc.echr.coe.int/?i=001-222898;
[16] https://hudoc.echr.coe.int/?i=001-225751;
[17] https://hudoc.echr.coe.int/?i=001-226433;
[18] https://hudoc.echr.coe.int/?i=001-233761.

political parties. The Commissioner states that these legislative amendments contradict the European Convention on Human Rights, but he does not identify even a single argument that would in any way substantiate his opinion. It is also entirely unclear why the Commissioner refers in a negative context to the proceedings pending before the Constitutional Court concerning the prohibition of unconstitutional political parties, given that there is no evidence discrediting this process, and also given that the prohibition of political parties is a process well known to many European countries. In many European countries, numerous political parties have been banned, including in recent years.

In his memorandum, the Commissioner also states that the Law of Georgia on Family Values and the Protection of Minors should be repealed. It must be stated unequivocally that this law, too, was adopted as a result of a broad consensus within Georgian society and repealing this law is not on the agenda. In his memorandum, the Commissioner also criticizes the recent legislative amendments made to the Law of Georgia on Broadcasting, but does not put forward a single substantiated argument to support his position. The Commissioner's criticism is also entirely unclear in view of the fact that the legislative amendment in question is based on the best European practice.

State Security Service of Georgia

§13 of the Memorandum:

The phrasing "rapidly concluded" in the context of the investigation of the State Security Service of Georgia may be susceptible to misinterpretation by the public, potentially suggesting that the pursuit of a quick result led to a superficial or incomplete inquiry. Such an interpretation can be inconsistent with the rigorous and comprehensive investigative process actually undertaken.

To clarify the procedural depth of this case, it is essential to note the following: more than 160 investigative activities have been carried out within the framework of the criminal case, 93 witnesses have been interviewed, including current and former officers of the Ministry of Internal Affairs, doctors, experts, respondents of the British broadcaster, representatives of the nongovernmental organizations and other individuals; various documentation has been retrieved from the Ministry of Internal Affairs and the Customs Department of the Revenue Service; as part of the investigation, 25 forensic samples were retrieved from the bases of the 1st and 2nd Divisions of the Special Tasks Department of the Ministry of Internal Affairs of Georgia, which underwent chemical analysis at the Levan Samkharauli National Bureau of Forensic Expertise[19].

Furthermore, the assertion that the State Security Service of Georgia did not describe the used substances as prohibited requires contextual clarification to avoid the unintended misinterpretation. This phrasing might be misleading, as it may imply that placing these substances under the category of non-prohibited substances was a matter of subjective judgment by the investigators. In reality, the investigation merely confirmed that neither of these substances belongs to the category of prohibited substances.

§41 of the Memorandum:
The Commissioner's observation concerning the summons of human rights defenders for questioning requires important procedural context. It is essential to clarify that these requests were issued strictly within the framework of a criminal investigation.

Under Criminal Procedure Code of Georgia, any person who may have information that is important to the case may be voluntarily interviewed by the parties[20]. The decision to invite the individuals for interviewing was a standard procedural step for ensuring a comprehensive and objective investigation.

[19] https://ssg.gov.ge/news/1060/brifingi-saxelmtsifo-usafrtxoebis-samsaxurshi.
[20] Article 113 of the Criminal Procedure Code of Georgia.