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Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

GEORGIA

INTERIM OPINION

ON THE DRAFT LAW "ON DE-OLIGARCHISATION"

Adopted by the Venice Commission
at its 134th Plenary Session
(Venice, 10-11 March 2023)

On the basis of comments by

Mr Francesco MAIANI (Member, San Marino)
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Mr Cesare PINELLI (Substitute Member, Italy)

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I. Introduction

1. By letter dated 1st December 2022, Mr Shalva Papuashvili, Chairman of the Parliament of Georgia, requested an opinion of the Venice Commission on the draft Law "On De-oligarchisation" (CDL-REF(2023)010) (hereafter "the draft law").

2. Mr Francesco Maiani, Ms Grainne McMorrow, Ms Angelika Nussberger and Mr Cesare Pinelli acted as rapporteurs for this interim opinion.

3. On 8 February 2023, the rapporteurs, together with Ms Simona Granata-Menghini, Mr Schnutz Durr and Mr Domenico Vallario from the Secretariat, had online meetings with representatives of the Parliament (majority and opposition), the Administration of the Government, the Public Defender's Office, representatives of the international partners of Georgia as well as with representatives of civil society. The Commission is grateful to the Council of Europe Office in Tbilisi for the excellent organisation of these online meetings.

4. The draft law, which has not been adopted by the Georgian Parliament yet, is very similar to the Ukrainian Law "On the prevention of threats to national security, associated with excessive influence of persons having significant economic or political weight in public life (oligarchs)" (see paragraph 18 below). The rapporteurs learned that amendments to the Ukrainian Law and implementing legislation were being prepared and would be submitted to the Commission. Given the above and the importance of the de-oligarchisation issue, this opinion has been prepared as an interim one, with a view to taking into account further legislative developments when they are available.

5. This interim opinion was prepared in reliance on the English translation of the draft law. The translation may not accurately reflect the original version on all points.

6. This interim opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings on 8 February 2023. The draft interim opinion was examined at the joint meeting of the Sub-Commissions on Democratic Institutions, Fundamental Rights and the Rule of Law on 9 March 2023. It was adopted by the Venice Commission at its 134th Plenary Session (Venice, 10-11 March 2023).

II. Background

7. While Ukraine was the first country to adopt specific de-oligarchisation legislation, the commitment to eliminate the excessive influence of vested interests in economic, political and public life has been the objective of a specific recommendation of the European Commission (EC) also to Georgia and to the Republic of Moldova.[1]

8. The EC recommendations concerning the issue of de-oligarchisation to Georgia and the Republic of Moldova, drafted in similar terms, did not specify whether de-oligarchisation should be addressed by means of specific "anti-oligarch" legislation and/or structural reforms to reinforce state institutions and the rule of law. As regards Ukraine, in its opinion the EC noted that "*a so-called "Anti-Oligarch law" was signed into Law in November 2021*". Consequently, the EC recommended to "*implement the Anti-Oligarch law to limit the excessive influence of oligarchs in economic, political, and public life; this should be done in a legally sound manner, taking into account the forthcoming opinion of the Venice Commission on the relevant legislation*".

[1] See European Commission opinions on the EU Membership applications by Ukraine, Georgia and the Republic of Moldova, 17 June 2022.

III. Analysis

A. Preliminary remarks

9. The non-transparent influence of so-called "oligarchs" is a major problem for democracy-building in the States of Eastern Europe, such as Ukraine, Georgia and the Republic of Moldova. It is difficult to grasp the extent of adverse influence of “oligarchs” on the rule of law, because “oligarchs”, as a rule, do not exert overt influence on political life and on the media directly, but in an indirect and hardly visible manner. Often, illegal methods are used to merge political decision-making and business interests. “Oligarchs” tend to successfully avoid the jurisdiction and ambit of criminal, anti-corruption and anti-monopoly legislation by utilising methods designed to undermine the protective mechanisms of separation of powers and by exerting undue influence on the judiciary to their benefit.

10. Indeed, in Georgia, as in other countries, oligarchisation is the result of a combination of exercising political power without the political mandate, influence on parliaments, governments, political parties, judiciary and law enforcement bodies; ownership or influence on the media; decisive, if not monopolistic, influence on a number of areas, such as energy, mining, oil and gas, metallurgy, real estate, etc.[2] Speaking about the problem of oligarchy, the term "captured state" has also been used.[3]

11. Limiting the influence of “oligarchs” in political, economic and public life is certainly a priority for a state wishing to achieve a democratic system governed by the rule of law and respectful of human rights, and the Venice Commission supports the goal of eliminating or at least reducing this negative influence. Nevertheless, de-oligarchisation is a very complex issue, and the choice of the means to achieve it is of decisive importance if the system is to be effective while respecting democracy, the rule of law and fundamental rights.

12. The Venice Commission notes from the pieces of legislation submitted to it for assessment that two approaches as to the means of de-oligarchisations may be distinguished.

13. The first, which the Venice Commission will refer to as “systemic”, involves the adoption and strengthening of legal tools in many fields of Law, such as legislation relating to media, anti-monopoly, political parties, elections, taxation, anti-corruption and anti-money laundering, etc. Addressing the destructive influence of oligarchy requires considering these fields of Law in a comprehensive and coordinated manner. In view of the interconnected nature of the problem, efficient bridges must be built between these fields of Law and the institutions that implement them. This systemic approach has a long-term preventative effect.

14. The other approach, adopted by the draft law under consideration and which the Commission will refer to as “personal”, seeks to identify the persons who wield this negative influence on the state through specific criteria, such as wealth, media ownership, etc. The persons who fulfil a combination of these criteria are publicly declared as “oligarchs”. Once registered as “oligarchs”, these persons are then subjected to a series of limitations that include exclusion from the financing of political parties or activities, exclusion from privatisations of public property and the strict obligation for public officials to report on the content of exchanges with

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[2] See among many others, CDL-AD(2020)013, Albania - Opinion on draft amendments to the Law n°97/2013 on the Audiovisual Media Service, adopted by the Venice Commission on 19 June 2020, paragraph 48; Wojciech Konończuk, Denis Cenușa and Kornely Kakachia, “Oligarchs in Ukraine, Moldova and Georgia as key obstacles to reforms”, Understanding the EU’s Association Agreements and Deep and Comprehensive Free Trade Areas with Ukraine, Moldova and Georgia, 2017; Study prepared by the Reporters Without Borders, 2016.

[3] See the European Parliament resolution of 14 November 2018 on the implementation of the EU Association Agreement with Moldova (2017/2281(INI)), paragraph 3.

them or their representatives. The “personal approach” is thus rather punitive in character. The consequences of the designation of a person as an “oligarch” raise a series of questions regarding its compatibility with the guarantees of the European Convention on Human Rights (ECHR). Further, to the extent that “oligarchs” are excluded from political participation, the principle of political pluralism needs to be upheld: the decision as to who qualifies as an “oligarch” should not be left at the risk of being decided along party political lines. Supposing that this “personal approach” could be made to be compatible with Council of Europe standards, it would require clear legal criteria and strong guarantees of an independent decision-making body and due process, notably the establishment of special procedures for the investigation into the applicability of the criteria, for making evidence-based decisions, a special registry for these persons, for a comprehensive appeal process against these decisions and the possibility of having the “oligarch” designation removed for a person previously registered as an “oligarch”.

15. Overall, it can be said that the Venice Commission favours a more systemic approach, which includes prioritising the strengthening of the legislation and the institutions that work in the various sectors in order to enable efficient cooperation and mutual assistance between them. While the Venice Commission considers the personal approach as generally problematic, it does not categorically exclude all the elements of such an approach, notably insofar as they relate to illegal or criminal acts. The Commission wishes to stress once more that this approach requires putting in place strong procedural guarantees to prevent violations of both human rights and the rule of law.

16. Bearing in mind the above reasons, the Venice Commission is also mindful of the prevailing domestic legal and political context, which offers important insights concerning the rationale and content of the draft law, and makes its recommendations accordingly on the most effective means of addressing such a de-oligarchisation priority. Therefore, given the contextual differences, the de-oligarchisation strategy has to take into account the specific situation in each country.

17. The Venice Commission considers that the implementation of the recommendations in various fields, when taken together, will be an essential part of a systemic approach to de-oligarchisation, and will serve as the necessary foundation for any specific legislation on this issue. De-oligarchisation process should take into account the recommendations of the Council of Europe and other international bodies linked to various aspects of the excessive influence of vested interests in economic, political and public life. For example, the EU recommendations and recommendations from, *inter alia*, GRECO[4] and MONEYVAL[5] are also of significance.

B. Overview of the draft law

18. On 5 October 2022, the Legal Issues Committee of the Parliament of Georgia submitted the draft law "On De-oligarchisation" to the Parliament. The draft law is very similar to the Ukrainian Law in force (CDL-REF(2021)086) and substantially repeats its provisions. The main difference is that in the case of Ukraine, the decision-making body to declare a person as an “oligarch” is the National Security and Defence Council under the President of Ukraine. In the Georgian draft law, this decision rests with the Government. The draft law is a temporary measure. This explains

[4] In its 4th evaluation round report on Georgia, adopted in 2017, GRECO made 16 recommendations. Following the first (2019), second (2021) compliance reports and addendum to the 2nd compliance report (2022), GRECO concluded that Georgia has implemented satisfactorily or dealt with in a satisfactory manner 8 of the 16 recommendations. See for instance recommendations relating to MPs and prosecutors.

[5] MONEYVAL adopted the 5th round mutual evaluation report of Georgia in September 2020. Given the overall results, Georgia was placed in enhanced follow-up. Regarding the implementation of the Financial Action Task Force (FATF) Recommendations on transparency and beneficial ownership of legal persons and legal arrangements (see notably recommendations 24 and 25).

why it has a so-called "sunset" clause, which provides for the Law to expire within ten years. As such, the Ukrainian Law, and the Georgian and Moldovan draft laws inspired by it, are a novelty and do not have a known equivalent in other Venice Commission member States.

19. During the online meetings, the Venice Commission delegation was informed that the Georgian authorities decided to follow the Ukrainian Law in the absence of international experience/best practices regarding de-oligarchisation. They were also encouraged by the positive assessment of Ukrainian Law by the President of the European Commission.[6] The Venice Commission agrees that it is not easy to identify international standards and best practices specifically applying to the novel issue of de-oligarchisation. As pointed out above, de-oligarchisation has to be seen in the wider context of making state institutions resilient to the undue influence of ensuring democratic legitimacy and accountability of political actors and of ensuring a level playing field between candidates in electoral contests and of providing free and fair access to information. Many diverse aspects and the standards pertaining to each sector need to be taken into account.

20. In the words of its Preamble, the draft law seeks to *"overcome conflicts of interest caused by the merger of politicians, media and big business, preventing the use of political power to increase one's own capital, ensure Georgia's national security in economic, political and informational spheres and protect constitutional rights of a citizen, democracy and state sovereignty"*.[7] Thus, the draft law aims to fight a dangerous phenomenon, i.e. the degeneration of a democratic system due to the concentration of influence on political affairs in the hands of individuals or companies wielding considerable economic and/or media power.

1. Definition and designation as "oligarch"

21. An “oligarch” (or "a person wielding significant economic and political weight in political life") is defined in Article 2 as a person simultaneously matching at least three out of four criteria outlined in the draft law:

- involvement in political life, which in Article 3 of the draft law is further defined as including various high-level officials (the President of Georgia, members of Parliament, Prime Minister, ministers, Head of the Security Service, Prosecutor General etc.), as well as "close relatives"[8] or "affiliated persons"[9] to such officials and persons who hold positions in governing bodies of political parties and/or have financed the activities of a political party;

[6] Speech by President von der Leyen at the European Parliament Plenary on the preparation of the European Council meeting, 22 June 2022, extract: “…*Or take the excessive influence of oligarchs on the economy. Ukraine has adopted a bold law to break the oligarchs' grip on Ukraine's economic, political and public life. In fact, it is the only country in the Eastern Partnership that has done so. Now it is about turning the law into positive and enduring change”*.

[7] The Ukrainian law is more explicit in adding that the aim is also “*to avoid instances of manipulating the minds of citizens through deliberate distortion of information for the purpose of obtaining access to resources owned by the Ukrainian people*”.

[8] For the definition of a “close relative” reference is made to Article 4 of the Law of Georgia „On Conflict of Interest and Corruption in Public Service“, which gives the following definitions: *“close relative” is a person’s family member, direct ancestor or descendant, stepchild, sibling, as well as a stepchild of his/her parent or child*”.

[9] Affiliated persons are in turn defined in the draft law as persons “*who directly or indirectly have an interest or voting right in a business entity, as well as another person recognised as an affiliated person in accordance with the rules established by the Tax Code of Georgia*”.

- exerting significant influence on mass media, which in Article 4 of the draft law is defined as being an owner, founder, beneficial owner or controller[10] of a mass medium[11];
- holding ultimate beneficial ownership of a business monopoly; and/or
- having personal assets (and those of the businesses of which s/he is a beneficiary) representing a combined value of 1 million subsistence minimums.[12]

22. The draft law gives the Government of Georgia the power to decide whether an individual qualifies as an "oligarch" on the ground that s/he possesses at least three of the above-mentioned four criteria upon the proposal of the Cabinet of Ministers, a member of the National Security Council of Georgia (mainly composed of the members of the Cabinet of Ministers[13]), the National Bank of Georgia or the National Competition Agency of Georgia.[14] If the Government decides in the affirmative, the decision shall be published on the website of the Government and enter into force immediately after its promulgation.[15]

23. The Venice Commission delegation was informed that during the legislative process, the decision-making power had initially been conferred to the Parliament of Georgia, subsequently replaced by the Government in the second reading. The Venice Commission notes in this respect that a qualified majority in the Parliament would entail some involvement of the opposition and, therefore, at least some checks on the ruling majority's powers. It is important that the decision as to who qualifies as an “oligarch” should not be used as a tool to exclude political competition. Other options may be explored in this respect.

24. Against this background, it appears even more necessary to provide that the designation as “oligarch” should not be decided on the basis of party political considerations. Severe limitations of the right to political participation should not become, be it only potentially, a tool of unfair electoral competition. The decision as to who is an “oligarch” should, therefore, not be entrusted to a purely political body.

2. "Involvement in political life"

25. According to Article 3, paragraph 1 (a) of the draft law, "Involvement in political life" concerns the highest positions in the State (President of Georgia, Chairman, First Deputy or Deputy Chairman and any other member of the Parliament, Prime Minister, First Vice Prime Minister, Vice Prime Minister, Minister, his/her First Deputy or Deputy, head of another central executive authority that is not included in the structure of the Cabinet of Ministers, Head of the Security Service, Prosecutor General, Governor of the National Bank, head of a standing ancillary authority created by Prime Minister, his/her First Deputy or Deputy). But, according

[10] Being controller of mass media is defined (in Article 1, paragraph 1 (d) of the draft law) as “*a person who is able to exert a decisive influence on the mass medium’s management or business directly or indirectly (by exercising the rights of a beneficiary or through another person); A person who can exert such influence on the basis of a contract or otherwise, including through financing*”.
[11] This includes persons who have such a position as at the effective date of this Law but lost this status before the enactment of this Law, as a result of which an affiliated person or a person who lacks impeccable business reputation in the meaning of this draft law.
[12] According to the most recent data of the National Statistics Office of Georgia, in January 2023, one million subsistence minimum equalled GEL 227 million (approximately EUR 80 million).
[13] According to Article 193 of the Law of Georgia “On Planning and Coordination of the National Security Policy”, the permanent members of the National Security Council shall be: the Prime Minister, the Minister of Defence, the Minister of Internal Affairs, the Minister of Foreign Affairs, the Minister of Finance, the Head of State Security Service, the Head of Intelligence Service and the Commander of Defence Forces.
[14] Article 5, paragraph 1 of the draft law.
[15] Article 5, paragraph 2 of the draft law.

to Article 3 paragraph 1 (b), it is also sufficient to be a "family member or a close relative" of the above-mentioned officials. Furthermore, sub-paragraphs (c) and (d) of the same Article are of a very different nature. It is sufficient to "hold a position in the governing bodies of a political party" or "to have financed activities of a political party, political campaigning or holding rallies or demonstrations with political demand".

26. The last item elements are rather vague. Having financed activities of a political party can cover very low amounts of support. Political campaigning is a very broad term which could involve any kind of proposal or protest in the public sphere. Thresholds and/or a more precise definition of political campaigning would be necessary.

3. "significant influence on mass media"

27. The term "significant influence on mass media" is not sufficiently clear. In so far as "influence" refers to "ownership" it can be proven, including beneficial ownership, at least in principle.

28. Concerning the notion of "controller" it is, however, not clear if that has a precise legal meaning or is understood as "exerting influence on". The term "significant" requires additional criteria.

4. "impeccable business reputation"

29. The notion of "*a person who lacks impeccable business reputation*" in Article 4 (c) is further clarified in Article 10 which sets the following criteria: "*a) having a conviction that has been neither cancelled nor cleared in the manner prescribed by law; b) imposition by Georgia, foreign states (other than states carrying out armed aggression against Georgia), intergovernmental associations or international organisations of sanctions against the person — while the sanctions are in force and three years after they have been lifted or expired; c) inclusion of the person in the list of persons associated with terrorist activities or subjected to international sanctions — while the person is on the list and ten years after having been struck off the list; d) deprivation of the right to occupy certain positions or to engage in certain activities under a court decision — while the sentence is in force; e) inadequate discharge by the person of obligations to pay taxes, fees or make other mandatory payments where the total unpaid amount is equal to or exceeds 100 minimum monthly wages established by the laws and regulations of Georgia for the period during which the violation was committed, or an equivalent thereof in foreign currency — while the violation continues and three years after it has ceased; f) acquisition of (intention to acquire) a mass medium at a price that is significantly lower than the market price, or with the funds whose origin is not corroborated by documentary evidence; g) substantial and/or systematic violations by the person of the requirements of the laws and regulations on mass media, banking, financial, currency, tax laws and regulations, laws and regulations on financial monitoring, laws, and regulations on securities, joint-stock companies, and the stock market*".

30. Some of the above-mentioned criteria are evidence-based (e.g. former conviction) or are provable (e.g. inclusion in a list of terrorists, sanctions, deprivation of the right to occupy certain positions). However, the Venice Commission finds that certain criteria refer to situations where the potential wrongdoing (non-payment of taxes, violations of the laws) has not been formally established by the courts. In order to avoid violations of the presumption of innocence of the persons concerned, these criteria must refer to final tax decisions or convictions. Similarly, the "intention" to acquire a mass medium at a price that is significantly lower than the market price cannot be included in this list.

5. Consequences of being designated as an “oligarch”

31. The consequences of being designated as an “oligarch” are described in Articles 6 and 7 of the draft law. They are as follows:

- being put in a public register within three days from the relevant decision.[16] This register can be accessed through the website of the Government and includes information justifying the decision of the Government, the legal entities of which the designated person is the ultimate beneficial owner and the list of elected officials to whom a designated person contributed election funds (or who were nominated by political parties to which a designated person made a donation) for the past three years;[17]
- upon inclusion in the register, persons concerned (and legal persons of which they are beneficial owners) are prohibited from making donations (financial or in-kind) to political parties, election campaigns, other political campaigning and/or the holding of rallies or demonstrations "with political demands" and are additionally banned from being buyers (or beneficiaries thereof) in large-scale privatisation processes;[18]
- persons designated as “oligarchs” will be required to submit an asset declaration (on an annual basis to the Civil Service Bureau).[19] These declarations will be, for a large part, made public (see details in paragraph 37 below);
- public officials (the definition of which reportedly covers several hundred persons[20]) will be required to disclose any meeting, conversation or communication by phone, online or in person with persons included in the register or their representative through the obligatory filing of a declaration of contacts via the website of the Government.[21]

6. Removal from the register

32. According to Article 9 of the draft law, removing an “oligarch” from the register is possible if the person does not match at least two criteria simultaneously. However, the person him/herself may – according to Article 9, paragraph 4 - request a removal decision “if no match exists with the criteria stipulated by Article 2 (a) of this Law”. This approach embraces, thus, all four criteria.

IV. Human rights issues

33. The draft law introduces several restrictions and limitations applicable to persons designated as "oligarchs". These restrictions and limitations interfere with the enjoyment of rights guaranteed by the ECHR. The most obvious of these are the right to respect for private and family life (Article 8 ECHR), the right to freedom of expression (Article 10 ECHR) and the right to freedom of assembly and association (Article 11 ECHR).[22] Interferences with these rights may be justified only insofar as they pursue a legitimate aim, are provided for by Law and lawful (in terms of the quality of the Law) and are proportionate to the legitimate aim pursued and necessary in a democratic society.

[16] Article 6, paragraph 5 of the draft law.
[17] Article 6, paragraph 4(f) of the draft law.
[18] Article 7, paragraph 1 of the draft law.
[19] Article 7, paragraph 2 of the draft law, referring to Law of Georgia “On Conflict of Interest and Corruption in Public Service”.
[20] Article 8, paragraph 5 of the draft law.
[21] Article 8, paragraph 4 of the draft law.
[22] There may also be an infringement of the right to property, protected by Article 1 of Protocol 1 to the ECHR. The Venice Commission will, however, not go into more detail in this respect.

A. Possible interference with Article 8 ECHR

34. Interference with the enjoyment of the right to respect for private and family life protected by Article 8 ECHR may arguably occur at several stages of the application of the Law by:

- the collection, assessment, storage and processing of personal data by the Government (Article 5 of the draft law);
- the publication of the names of persons designated as "oligarchs" in the register of the Government (Article 6 of the draft law);
- the requirement to submit declarations of assets to the Civil Service Bureau (Article 7, paragraph 2 of the draft law);
- the requirement upon public officials to declare their contacts with persons designated as "oligarchs" and/or their representatives (Article 8 of the draft law).

35. First of all, the Government has to assess whether a person meets three of the four criteria set out in the draft law to be designated as an "oligarch". The draft law is silent on the means of this assessment (which is conducted on the basis of submissions by a number of public bodies and officials). It can, however, be assumed to include some sort of investigation for which personal data is collected, stored and processed. The mere storing of such data (and by analogy, its collection) can already amount to an interference with the exercise of a person's rights under Article 8 ECHR, even if the Government would not take any further steps in using this data.[23] The fact that some of the information collected on persons to be designated as "oligarchs" (and the subsequent publication of such data) is already in the public domain will not necessarily remove the protection offered by Article 8 ECHR.[24]

36. The second instance of possible interference with the rights protected by Article 8 ECHR relates to the publication of names of persons designated as "oligarchs" in the register held by the Government (which includes the publication of information as to how the person fulfils the eligibility criteria, the legal entities of which the designated person is the ultimate beneficial owner and the list of elected officials to whom a designated person contributed election funds for the past three years). By comparison with, for example, a register of lobbyists,[25] in the opinion of the Venice Commission, the publication of the names of persons designated as "oligarchs" contains an element of stigmatisation and can be seen as a form of blacklisting.[26] In part, this seems to have been the very intent of the legislator: the draft law would give a signal that the wealth of persons included in the list of "oligarchs" does not come from entirely transparent sources. However, while in the minds of people, the term "oligarch" indeed implies some form of wrongdoing, being designated as an "oligarch" and thereby included in the register does not necessarily mean having committed unlawful acts. It is noted that Article 8 ECHR protects reputation as part of the right to respect for private life.[27] A "blacklisting" effect by inclusion in the register can thus constitute an interference with the enjoyment of rights under Article 8 ECHR from the standpoint of the protection of reputation.

37. Once a person is designated as an "oligarch", s/he would be required to submit a declaration of assets on an annual basis to the Civil Service Bureau. This entails a large volume of personal data, including personal identification details and place of residence of the person concerned (and his/her immediate family), as well as their real estate, moveable property, commercial interests, intangible assets, received income, gifts (above a specified

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[23] ECtHR, Amann v. Switzerland, no. 27798/95, 16 February 2000, §69.
[24] ECtHR, Satakunnan Markkinapörssi Oy and Satamedia Oy v. Finland, no. 931/13, 27 June 2017, §134.
[25] Article 5, paragraph 1 (a) of the Law of Georgia "On Lobbying".
[26] See Venice Commission, CDL-AD(2010)022, *Report on counter-terrorism measures and human rights*, §§ 73-76.
[27] ECtHR, Axel Springer AG v. Germany, no. 39954/08, 7 February 2012, §83; Chauvy and Others v. France, no. 64915/01, 29 June 2004, §70; Pfeifer v. Austria, 12556/03, 15 November 2007, §35.

value), monetary assets, accounts opened in financial institutions, loans and liabilities and secondary positions.[28] This information is, for a large part, made public.[29] Again, such far-reaching disclosure requirements constitute an interference with the exercise of the right to respect for private life under Article 8 ECHR (also considering that it extends to members of the immediate family of persons designated as “oligarchs”).

38. The draft law furthermore affects the privacy of not only persons designated as “oligarchs”, but also public officials who may come into contact with them. The right to respect for private life and correspondence under Article 8 ECHR is implicated by the requirement for public officials to declare their contacts with persons designated as “oligarchs” and/or their representatives.[30] It is noteworthy that apart from containing information about the public official him/herself, the person designated as an “oligarch” or his/her representative (with whom the contact occurred), the date and place of the meeting or communication, the declaration of contacts is even to contain a summary of its content.[31] Given that Article 8 ECHR protects the confidentiality of private conversations, this requirement may interfere with both public officials' and persons designated as “oligarchs”' (and their representatives') rights to respect for their correspondence and private life.

B. Possible interferences with Articles 10 and 11 ECHR

39. The Venice Commission observes that some of the measures provided for by the draft law may have an effect on other rights protected by the ECHR. This concerns, in particular, the rights to political participation of persons designated as “oligarchs”. A consequence of the inclusion in the register of “oligarchs” is that the person concerned may no longer finance political parties (including in the form of performing work for such parties or their campaigns), election campaigns, other political campaigning and/or the holding of rallies or demonstrations "with political demands".

40. The possibility to donate to political parties is part and parcel of the right to freedom of association, guaranteed by Article 11 ECHR, which involves not only personal participation in a political association but also other forms of support. This measure may also affect Article 10 ECHR since persons designated as “oligarchs” will see their possibility to impart information reduced, for example, as a result of the prohibition on financing the rallies and demonstrations "with political demands". It is noted that the draft law does not reinstate the legal cap on financing which has been violated by the “oligarch” but results in a complete ban on any such financing by persons designated as “oligarchs”.

C. Legitimate aim

41. The enjoyment of the rights under Articles 8, 10 and 11 ECHR is not absolute and can be restricted. The conditions upon which a State may interfere with the exercise of these rights are set out in the second paragraphs of these Articles. One of the aims for which a State may interfere with the exercise of these rights is if this is necessary in the interests of national

[28] Article 15 of the Law “On Conflict of Interest and Corruption in Public Service”.
[29] The personal ID number, address of the place of permanent residence and telephone number, and the secret field of the declaration are not disclosed (Article 19 of the Law “On Conflict of Interest and Corruption in Public Service”).
[30] Article 8 ECHR “*protects the confidentiality of private communications, (…) whatever the content of the correspondence concerned (…), and whatever form it may take*”. ECtHR, Klaus Müller v. Germany, no. 24173/18, 19 November 2021, §37.
[31] Only contacts which took place in the course of official events broadcasted live, court sessions and official events initiated by government authorities (as posted on the website of the government authority) do not have to be disclosed (Article 8, paragraph 3 of the draft law).

security. While, at first sight, the draft law may appear only to be remotely connected to a threat to national security, the Venice Commission can accept that the reality and prominence of the phenomenon of so-called "oligarchisation" in Georgia is such (in particular, in the way that this undermines democracy and the rule of law) that this could amount to a threat to the national security. Similarly, Article 8 ECHR allows for restrictions for the "economic well-being of the country", which can be implied for a Law that tries to contain the influence of “oligarchs” as major economic actors. All three ECHR provisions allow for limitations for reasons of "public safety". The overwhelming influence of “oligarchs” in specific sectors could be seen as a threat to public safety. From this perspective, the draft law could therefore be said to pursue a legitimate aim.

D. Lawfulness

42. A test used by the European Court of Human Rights (ECtHR) to analyse the compliance of contested measures with the requirements of the second paragraphs of Articles 8, 10 and 11 ECHR is the lawfulness of the interference. The requirement of "lawfulness" implies not only the existence of a legal basis, but also meeting certain fundamental criteria underpinning the *quality* of this legal basis: The Law must be sufficiently clear and foreseeable.[32] For domestic Law to meet these requirements, "*it must afford adequate legal protection against arbitrariness and accordingly indicate with sufficient clarity the scope and discretion conferred on the competent authorities and the manner of its exercise*".[33] While it is true that *"many laws are inevitably couched in terms which, to a greater or lesser extent, are vague and whose interpretation and application are questions of practice",* laws nevertheless have to satisfy the requirement of "foreseeability".[34]

43. The Venice Commission is of the opinion that the draft law as it stands is open to criticism from the standpoint of the quality of its legal basis. It does not clearly delimit the Government's power in gathering and processing information on persons potentially to be designated as “oligarchs” and does not define with sufficient precision the criteria used to be designated as an “oligarch”. Thus, the draft law opens the door to arbitrariness.

E. Necessity in a democratic society

44. It needs to be ascertained whether the measures provided by the draft law correspond to a pressing social need and are proportionate to the legitimate aim pursued.[35] The Venice Commission recalls that it is not its task to examine instances of the application of this draft law. It can, therefore, not be excluded that, in some cases, restrictions and obligations imposed by this draft law would be justified. The task of the Venice Commission is different – to evaluate the draft law *as presented in its current form* and to identify weak points or flaws which may lead to human rights violations. In doing so, the Venice Commission is essentially guided by the approach of the ECtHR, which, in its analysis of proportionality, also looks at the procedural safeguards available to the individual, protecting him or her from arbitrariness and excesses.[36]

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[32] Given the extent the enjoyment of Articles 8, 10 and 11 are interfered with, the necessity to formulate the law with “sufficient precision” to enable persons to foresee whether the law is applicable to them becomes all the more important. See for example: ECtHR, Rotaru v. Romania, no. 28341/95, 4 May 2005, §57-58; Amann v. Switzerland, §56.
[33] ECtHR, Catt v. the United Kingdom, no. 43514/15, 24 January 2019, §94.
[34] ECtHR, Huhtamäki v. Finland, no. 54468/09, 6 March 2012, §45.
[35] ECtHR, Olsson v. Sweden (no. 1), no. 10465/83, 24 March 1988, §67.
[36] ECtHR, Fernández Martínez v. Spain, 56030/07, 12 June 2014, §147; A-M V v. Finland, no. 53251/13, 23 March 2017, §84.

1. Broad discretion

45. The first major flaw of the draft law is the vagueness of certain provisions (as already briefly mentioned above, under the heading of "lawfulness"). Thus, for example, as regards the systematic collection, assessment, storage and processing of personal data by the Government on persons to be designated as “oligarchs”, the draft law does not sufficiently define the kind of information, which is to be gathered, the categories of persons on whom this information is collected and kept or the procedure to be followed.[37]

46. Furthermore, the designation of persons as “oligarchs” on the basis of the data collected – which results in the publication of their names and other information in a register of “oligarchs” and other limitations as already described before – is based on a set of unclear criteria. These criteria apply to potentially a very large range of people and leave excessive discretion to the decision-making body, the Government, to, for example, decide whether someone has “decisive influence on the management of a mass medium” or is involved in political life through the financing a rally or demonstration "with political demands" (which most demonstrations can be considered to have in one way or another) or by having made a donation to a political party or for simply being a relative of a high-level official.[38] Similar considerations are associated with decisions to no longer recognise someone as an “oligarch” in accordance with Article 9 of the draft law (for example, because they have sold their media stakes to someone with an "impeccable business reputation"), all the more so because some of the reasons for not recognising someone as having an "impeccable business reputation" are in the hands of the Government itself.[39] At the same time, the Government is not obliged to act even if the criteria for including someone in the register of “oligarchs” are fulfilled.

47. To sum up, the draft law gives too much discretion to the Government to decide which information is to be collected, assessed and processed, from whom and how it is to be decided if someone is designated as an “oligarch”.

2. Lack of independence/impartiality in decision-making

48. This discretion of the Government is even more problematic given the potentially large influence notably of the Prime Minister on the decision-making process.

49. The Government of Georgia is the supreme body of executive power that implements the domestic and foreign policies of the country; coordinates and controls the activities of the ministries and state sub-agencies under their governance. The Prime Minister of Georgia is the head of the Government. S/he shall define the main directions of Government activities, organise Government activities, coordinate and control the activities of ministers, sign legal acts of the Government; appoint and dismiss ministers and heads of other agencies,[40] including the majority of those referred to in article 5, paragraph 1, of the draft law, based on the submissions of which the Government decides to recognise a person as an “oligarch”. In Particular, the Cabinet of Ministers is controlled by the Prime Minister; the National Security Council is under the direct subordination of the Prime Minister, and its Secretary is also

[37] See in a similar vein, Rotaru v. Romania, §57.
[38] More recently, in Catt v. the United Kingdom, §106, the ECtHR emphasised the risk of ambiguity in the legal basis used by the authorities for the collection and retention of personal data, stemming from loosely defined notions in domestic law.
[39] For example, the decision on imposing sanctions against a person, cf. Article 10, paragraph 2 (b) of the draft law.
[40] Article 54 and 55 of the Constitution of Georgia; Articles 6 and 8 of the Law “On the Structure, Powers and Rules of Operation of the Government of Georgia”.

appointed by the Prime Minister.[41] The National Competition Agency is accountable to the Prime Minister and the Parliament; the Head of the Agency is appointed and dismissed by the Prime Minister.[42] Only as regards the National Bank of Georgia shall its Governor be appointed and dismissed by the President of Georgia.[43]

50. By deciding on the composition of the Government, heading it and, as indicated above, having full discretion in deciding whether to put the decisions of the Government into effect, within the Government, the Prime Minister has potentially an inordinately strong influence over who will be designated as an "oligarch". One of the consequences of this designation is a prohibition on financing any political party, election campaign, rally or demonstration with a political character.

51. Against this background, the Venice Commission considers that there is a risk of selective application of the Law (or, more specifically, that the Government could potentially use its powers to declare political/economic competitors as "oligarchs", thus rendering them unable to finance opposition political parties or candidates or rallies held by these parties or candidates).

52. The draft law defines a certain procedure for declaring persons as "wielding significant economic and political weight in public life". However, this procedure may be initiated by those who are themselves targeted by the draft law as potential "oligarchs". Thus, according to Article 3 paragraph 1 (a), e.g., the Governor of the National Bank is regarded as matching the criterion of involvement in political life. At the same time, according to Article 5, paragraph 1, the National Bank may submit a proposal to recognise someone as an "oligarch". This creates confusion of roles. The same applies, in even clearer terms, to the members of the Government; they are considered potential "oligarchs" (Article 3, paragraph 1 (a)); at the same time, it is the Government who shall adopt a decree on the official promulgation of the declaration of someone as an "oligarch". This mechanism *de facto* shields the Government members from being considered as "oligarchs", at least in so far as they can veto the decision of the other members of the Government.

3. Lack of procedural safeguards and effective remedies

53. The Venice Commission is also concerned about the lack in the draft law of fundamental due process guarantees in the procedures before the Government.

54. The decisions of the Government to designate persons as "oligarchs" are made on the basis of submissions by a number of public bodies and officials, including members of the Government itself (which potentially leaves the procedure from beginning to end in the hands of the Government).[44] The draft law does not provide that the members of the Government who made the initial submission will be excluded from the decision-making process.[45]

55. As already indicated above, the draft law is silent on the concrete means of assessment by the Government following these submissions. They can be assumed to include some sort

[41] Articles 19^1 and 19^4 of the Law of Georgia "On Planning and Coordination of the National Security Policy".
[42] Article 16 and 17 of the Law of Georgia "On Competition".
[43] Article 7.7 of the Organic Law "On the National Bank of Georgia".
[44] The Prime Minister is him/herself listed in the definition of involvement in political life (Article 3, paragraph 1 of the draft law) as one of the high-level officials to which the definition of an "oligarch" can apply. The mechanism of having the Prime Minister adopt a decision recognising him/herself as an "oligarch", on the decision of his/her own subordinated body, *de facto* exempts him/her from being considered as an "oligarch".
[45] Article 3, paragraph 1 of the draft law.

of investigation to assess whether the persons concerned meet the criteria laid out in the draft law, but the persons concerned are not involved in the Government's assessment process, which appears to be conducted behind closed doors. They are given notice of the proposal to designate them as an "oligarch" (including which criteria are considered to be applicable in their case) ten business days before the meeting of the Government in which this will be discussed, which is also when a notice is published on the Government's website.[46] At this point, the person concerned has five business days to submit further explanations and other information in writing (and may, at his/her request, also be heard at the meeting). Failure of the person concerned to receive the notice of the Government or to attend the hearing shall expressly not serve as a ground for adjournment of the Government's decision, even if the person concerned did not receive the notice or did not attend the meeting for valid reasons.[47]

56. The Venice Commission observes that the procedure can thus go forward within a very tight time frame without any direct information. Given also the complexity of the applicable criteria (e.g., involvement in political life, significant influence over mass media, ultimate beneficial ownership of a business monopoly, combined value of personal assets), there is no justification for such a tight timeframe. The right to be heard, given the serious interferences imposed on the human rights of persons designated as "oligarchs", is essential. In the wording of the draft law as it stands, this right is not secured.

57. During the online meetings, the Venice Commission delegation was informed that the decisions of the Government might be appealed to the courts according to the Code of Administrative Procedure of Georgia. Referring to the foreseeability of the Law as analysed in paragraph 42 above, the Venice Commission considers that the absence in the draft law of a legal remedy to appeal the Government's decisions is a source of concern. The draft law should include detailed provisions as to the availability of judicial remedies, as well as the procedure thereto. At this point, the person will have already been included in the register, and much of the damage (to his/her private and business reputation, his/her ability to finance certain political activities etc.) has already been done. In the opinion of the Venice Commission, given the flaws in the procedure which may lead to the Government's decision, an appeal before a court of Law should have a suspensive effect: Unless the decision is confirmed on appeal, the name of the person should not be put in the register.

4. Possible alternative means

58. The current draft law could result in endless expensive litigation and challenges, both nationally and at the European level. Exploring alternative less-intrusive means to achieve a legitimate aim is a core element of the analysis of proportionality. The Venice Commission notes that the draft law introduces burdensome obligations for persons designated as "oligarchs" as well as for public officials who come into contact with them, while questions can be raised as to the efficacy of those obligations in reducing the influence of "oligarchs" on political life in Georgia. In the view of the Venice Commission, addressing "oligarchisation" cannot be seen separately from the need for structural reforms of the judiciary to strengthen its independence and integrity, further measures to address the distortive effects of "oligarchs" on competition (for example, by strengthening the National Competition Agency), measures to address media concentration and legislation facilitating access to official information and investigative journalism, the continuation of support to specialised anti-corruption agencies, notably the recently created National Anti-Corruption Bureau, especially in their efforts to tackle high-level corruption and reform of tax legislation (cutting out possible tax benefits and exemptions used by oligarchic structures). Any specific Law on "oligarchs" should be adopted only in the wider context of such reforms (the aforementioned so-called "systemic approach").

[46] Article 5, paragraph 4 of the draft law.
[47] Article 5, paragraph 5 of the draft law.

59. More specifically, as regards two of the measures proposed by the draft law, the prohibition of the financing of political parties, election campaigns, other political campaigns and rallies and demonstrations "with political demands" and the requirement on public officials to submit asset declarations, the Venice Commission considers that other legal venues should be examined. The measures should be commensurate to the goal pursued of achieving a level playing field for all actors in society. As regards the financing of political parties and election campaigns, the Venice Commission understands the need to reduce the influence of "big money" in the political sphere but considers that this aim could be better achieved by strengthening the rules on the transparency of donations combined with a general cap or even a blanket prohibition on donations by legal persons to avoid having multiple legal persons being used as vehicles to circumvent caps on individual donations.

60. When it comes to the requirement upon persons designated as “oligarchs” to submit asset declarations, the Venice Commission fully understands the need for greater transparency of beneficial ownership,[48] but considers that this should not just be the case for persons designated as “oligarchs”. It finds that this goal could be better achieved through – for example – *erga omnes* rules on transparency of beneficial ownership of companies.[49] It is recalled that in respect of public officials, the ECtHR has found the interference with the right to privacy as a result of these assets declarations justified. A particular consideration in this context was, however, the fact that running for public office was voluntary and the financial situation of persons holding such office - one of legitimate public interest.[50]

61. Regarding the requirement upon public officials to disclose the content of their communications with persons designated as “oligarchs” and/or their representatives, the Venice Commission finds the proportionality of this measure highly questionable. The contents of private conversations are at the very core of the right to privacy. Disclosure of conversations can be required in individual cases on the basis of a judicial warrant, but not as a blanket requirement outside judicial procedures. The Venice Commission also notes at a practical level that it is not unthinkable that certain public officials can be designated as “oligarchs” themselves or are family members of “oligarchs”, causing an unworkable tidal wave of declarations. As such, the Venice Commission would urge the Georgian authorities to reconsider this requirement.

62. Summing up, the Venice Commission encourages the Georgian authorities to explore other possible solutions to the problem of "oligarchisation" of the political sphere, which are commensurate to the goal to be achieved and do not involve the designation of certain persons as “oligarchs” on the basis of vague criteria, following a non-transparent procedure not offering sufficient guarantees of due process. Furthermore, the Venice Commission reiterates that for the sake of effective elimination of the excessive influence of vested interests in economic, political, and public life, the power to determine the status of persons to be designated as “oligarchs” and to be registered as such, with all the serious consequences that attach to such designation, without the risk of unfair suppression of political competition, should not be carried out by the political majority of the day.

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[48] For a definition of beneficial ownership, see Article 3(6) of the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141, 5.6.2015, p. 73).

[49] See however CJEU, *WM v Luxembourg Business Registers*, C-37/20 and C-601/20, 22 November 2022, finding that the provision of Directive (EU) 2015/849 whereby the information on the beneficial ownership of companies incorporated within the territory of the Member States is accessible in all cases to any member of the general public is invalid as it constitutes a serious interference with the fundamental rights to respect for private life and to the protection of personal data.

[50] ECtHR, Wypych v. Poland (Dec.), no. 2428/05, 25 October 2005.

V. Liability of public officials in case of non-disclosure of contacts with "oligarchs"

63. Regarding the requirement for public officials to disclose the content of their communications with persons designated as "oligarchs" and/or their representatives, the Venice Commission has already outlined above that it considers this requirement disproportionate and impractical.

64. Pursuant to the draft law, persons designated as "oligarchs" and their representatives are required prior to the meeting or communication to notify the public official that they or the persons they represent are included in the register, but failure to do so does not exempt a public official from liability for failing to file a declaration of contacts. Failure to do so would constitute a ground for political or disciplinary liability.[51] The Venice Commission considers that both kinds of liability should be clearly defined for the purposes of the draft law. In particular, the authorities should clarify the content, subjects and implementation modalities of "political" liability. As regards disciplinary liability, a detailed procedure has been provided in Chapter X of the Law of Georgia "On Public Service".[52] However, it is not clear which category of disciplinary sanctions is to be applied to different categories of public servants listed in Article 8, paragraph 5 of the draft law. Therefore, the Venice Commission considers that both "political" and "disciplinary" liability should be clarified in the draft law, including their content, subjects, procedure and implementation modalities.

VI. Conclusions

65. Limiting the influence of "oligarchs" in political, economic and public life is certainly a priority for a state wishing to achieve a democratic system governed by the rule of law, and the Venice Commission supports the goal of eliminating or at least reducing this negative influence. Nevertheless, de-oligarchisation is a very complex issue, and the choice of the means to achieve it is of decisive importance if the system is to be effective while respecting democracy, the rule of law and fundamental rights.

66. The Venice Commission supports the intent of the draft law to attempt to eradicate or reduce the influence of "oligarchs" over public life. The Commission has identified two approaches as to the means of addressing this complex issue; a multi-sectorial, systemic approach, which has a preventative effect and targets numerous fields, such as legislation relating to media, anti-monopoly, political parties, elections, taxation, anti-corruption and anti-money laundering, etc.

67. Another approach that can be called "personal" seeks to target the persons who may qualify as "oligarchs" through specific criteria, such as wealth, media ownership, etc., by limiting their means to influence economic, political and public life. The personal approach has thus a rather punitive character and entails the risk of violation of several human rights, unless strong guarantees of due process are put in place, and protections against violation of political pluralism and the rule of law.

68. The Venice Commission favours a more systemic approach, which includes the strengthening of the legislation and the institutions that work in the various sectors, in order to enable efficient cooperation and mutual assistance between them. While the Venice Commission considers the "personal approach" as generally problematic, it does not categorically exclude all the elements of such an approach, notably insofar as they relate to illegal or criminal acts. The Commission wishes to stress once more that this approach requires to put in place strong procedural guarantees to prevent violations of both human rights and the rule of law.

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[51] Article 8, paragraphs 2 and 6 of the draft law.
[52] See https://matsne.gov.ge/en/document/view/3031098?publication=35

69. An analysis of the measures of the draft law demonstrates that these may lead to violations of fundamental rights protected under the ECHR and that the draft law gives the Government too much influence over the process. In this interim opinion, the Venice Commission outlines how, in particular, the process of collecting, assessing, storing and processing personal data on persons potentially designated as “oligarchs” by the Government, the stigmatisation associated with the publication of information on persons designated as “oligarchs” in the register of the Government, the requirement for persons designated as “oligarchs” to submit declarations of assets and the requirement upon public officials to declare their contacts with persons designated as “oligarchs” and/or their representatives may constitute an infringement of the enjoyment of rights under Article 8 ECHR. Similarly, the Commission considers that prohibiting persons designated as “oligarchs” from financing political parties, election campaigns, other political campaigns and rallies and demonstrations "with political demands" may infringe their rights under Articles 10 and 11 ECHR.

70. The Venice Commission is aware that enjoyment of the rights under Articles 8, 10 and 11 ECHR is not absolute and can be restricted. In analysing whether the restrictions of these rights of persons designated as “oligarchs” can be justified, the Venice Commission, first of all, recognises the reality and prominence of the phenomenon of so-called "oligarchisation" and does not dispute that this undermines democracy and the rule of law. As such, the Venice Commission considers that there is a legitimate aim for interference with Articles 8, 10 and 11 ECHR. However, the vagueness of the criteria used to designate a person as an “oligarch”, the broad discretion of the Government in interpreting and applying these criteria, its lack of independence/impartiality, the lack of due process guarantees and effective remedies afforded to persons designated as “oligarchs”, as well as the lack of proportionality and consideration for other less-intrusive measures make it difficult to justify these restrictions. While the ultimate decision on this is for a court to make, the Venice Commission finds that the measures proposed by the draft law as it stands are difficult to reconcile with Articles 8, 10 and 11 ECHR.

71. Given the issues and high risks identified above, the Venice Commission considers that the "personal approach" taken in the draft law, which defines and stigmatises persons on the basis of unclear criteria, carries a high risk that will lead to human rights violations without achieving the aims pursued. The risk of arbitrary application of the Law is even higher in the light of public statements, indicating that once adopted, it will be applied to the opposition.

72. In light of the above, the Venice Commission makes the following key recommendations:

a) as regards specific improvements to be made in the draft law:

- Clarification of key provisions and procedures, in particular:
  - Further clarifying and delineating various eligibility criteria, such as "being involved in political life" (Article 3) and "exerting significant influence on mass media" (Article 4), to ensure that these criteria a) do not potentially apply to a large range of people[53] and/or b) leave limited discretion to the decision-making body;
  - Further clarifying and delineating the exclusion criteria, such as "impeccable business reputation" (Article 10), to limit the discretion of the decision-making body and ensure that this is not, for the most part, based on information provided by this same body;
  - Outlining a clear procedure, defining which information is to be collected, by which bodies on which categories of persons and how this information is to be collected, assessed and retained (and ultimately destroyed, if not used), paying due attention to the case-law of the ECtHR on Article 8 ECHR;

[53] For example, persons who have in the past financed a political party or election campaign (regardless of the amount), are a relative of a high-level official or have financed a rally or demonstration (given that these often involve “political demands”).

- Inclusion of full procedural safeguards and effective remedies, in particular:
  - Providing longer procedural timelines for persons potentially designated as "oligarchs" and their representatives to provide further explanations and to prepare for meetings of the Government where decisions on the designation of a person as an "oligarch" are to be taken;
  - Providing a right to be heard at such meetings (also when the person in question has not received the notification of the Government or is unable to attend the meeting of this body for valid reasons);
  - Ensuring that an appeal against designation as an "oligarch" is an effective remedy with suspensive effect, guaranteeing that no information on this designation is made public until the appeal has been decided on.

- Ensuring the proportionality of certain consequences of designation as an "oligarch":
  - Removing the total prohibition for persons designated as "oligarchs" from financing political parties, election campaigns and rallies and demonstrations "with political demands" (possibly replacing this with a lower cap on donations and/or measures ensuring that current caps are not being circumvented, for example, a prohibition on donations from legal persons);
  - Removing the requirement on persons designated as "oligarchs" to submit asset and interest declarations (possibly replacing this with other measures to provide for more transparency of beneficial ownership);
  - Removing or revising the requirement for public officials to declare their contacts and communications with persons designated as “oligarchs” and/or their representatives, in particular, by deleting the requirements on the disclosure of the content of these communications.

It appears necessary that the influence of the executive over the procedure of designation of “oligarchs” be reduced by transferring the decision-making power to another body than the Government.

b) as regards systemic measures to be adopted:

The systemic approach would have to include further steps to:
- deepening structural reforms of the judiciary to strengthen its independence and integrity;
- addressing the distortive effects of “oligarchs” on competition (for example, by strengthening the National Competition Agency and improving anti-trust legislation);
- further supporting the recently created National Anti-Corruption Bureau, in particular, as regards fighting high-level corruption;
- ensuring transparent media ownership;
- reforming tax legislation, cutting out possible tax benefits and exemptions used by “oligarchic” structures;
- reinforcing rules on the financing of political parties and election campaigns (e.g. by having the current caps on individual donations complemented by a blanket ban on donations by legal persons);
- further enhancing the transparency of beneficial ownership.

Finally, the Venice Commission calls on the Georgian authorities to embrace other international recommendations in order to eliminate the excessive influence of vested interests in economic, political, and public life.

73. The Venice Commission remains at the disposal of the Georgian authorities for any further assistance.