



Strasbourg, 18 March 2025

CDL-AD(2025)001

Or. Engl.

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

GEORGIA

URGENT OPINION

**ON AMENDMENTS TO THE CODE OF ADMINISTRATIVE OFFENCES
AND THE LAW ON ASSEMBLIES AND DEMONSTRATIONS**

**Issued on 3 March 2025 pursuant to Article 14a
of the Venice Commission's Revised Rules of Procedure**

**Endorsed by the Venice Commission
at its 142nd Plenary Session
(Venice, 14-15 March 2025)**

on the basis of comments by

**Ms Renata DESKOSKA (Member, North Macedonia)
Ms Regina KIENER (Member, Switzerland)
Ms Angelika NUSSBERGER (Member, Germany)**

Table of Contents

I.	Introduction	3
II.	Background	3
A.	General context	3
B.	Amendments to the CAO and the Assemblies Law	5
III.	Analysis	6
A.	Applicable standards	6
B.	Legislative process	8
C.	Bans and other restrictive provisions	8
D.	Ban on using pyrotechnic items	9
E.	Ban on using devices with laser beams or sharp light beams	9
F.	Ban on covering the face with a mask or other means	9
G.	Ban on wearing police uniform or clothing/attributes similar to police uniform	10
H.	Spontaneous assemblies	10
I.	Administrative arrest	11
J.	Increase of penalties for administrative offences	12
IV.	Conclusion	13

I. Introduction

1. By letter dated 23 December 2024, Mr Theodoros Rousopoulos, President of the Parliamentary Assembly of the Council of Europe, requested an urgent opinion of the Venice Commission to assess, with reference to freedom of assembly, the amendments of 13 December 2024 to the Code of administrative offences (“CAO”) and the Law on assemblies and demonstrations of Georgia (“the Assemblies Law”), both referred to as “the December 2024 amendments” ([CDL-REF\(2025\)002](#), [CDL-REF\(2025\)003](#)). By letter dated 7 February 2025, the President of the PACE additionally requested that the Venice Commission include in this assessment the subsequent amendments of 6 February 2025 to the COA and the Assemblies Law, both referred to as “the February 2025 amendments” ([CDL-REF\(2025\)012](#), [CDL-REF\(2025\)013](#)).

2. Ms Regina Kiener, Ms Angelika Nussberger and Ms Renata Deskoska acted as rapporteurs for this opinion.

3. On 5 February 2025, the rapporteurs held a series of online meetings with the representatives from the international community, the Ombuds office, the political opposition, and the civil society organisations. The political party “Georgian Dream”, the Ministry of Justice, and the Ministry of Internal Affairs were duly invited but declined the invitation. The Commission is grateful to the Council of Europe Office in Georgia for the excellent organisation of the meetings.

4. This opinion was prepared in reliance on the English translation of the amendments. The translation may not accurately reflect the original version on all points.

5. This opinion was drafted on the basis of comments by the rapporteurs and the results of the online meetings. It was issued on 3 March 2025 pursuant to Article 14a of the Venice Commission’s Revised Rules of Procedure and in accordance with the Venice Commission’s protocol on the preparation of urgent opinions ([CDL-AD\(2018\)019](#)). The opinion was endorsed by the Venice Commission at its 142nd Plenary Session (Venice, 14-15 March 2025).

II. Background

A. General context

6. Parliamentary elections in Georgia were held on 26 October 2024. According to the Central Election Commission (CEC), the party “Georgian Dream” secured absolute majority in parliament, gaining 89 out of 150 seats.¹ Following the release of preliminary results, the opposition rejected the outcome, citing irregularities such as voter intimidation, vote buying, and alleged foreign interference. In the following days, citizen observer organisations and the opposition claimed that these irregularities pointed to coordinated manipulation, while the government, the governing party, and the CEC denied these claims. On 16 November, all elected MPs from the *Coalition for Change, Unity – to Save Georgia* (UNM), and *Strong Georgia - Lelo* renounced their seats, while *For Georgia* declared the newly elected parliament illegitimate.² Following its election observation mission, the PACE delegation expressed “concerns about the correctness of the election results, namely whether the election results truly reflect the will of the voters” and raised serious doubts as to “whether the electoral environment provided the

¹ Central Electoral Commission of Georgia, [Summary Protocol](#) of the Results of the Elections to the Parliament of Georgia of 26 October 2024, adopted on 16 November 2024

² OSCE/ODIHR, Georgia – Parliamentary Elections, 26 October 2024, [ODIHR Election Observation Mission Final Report](#), pp. 4 and 34.

necessary conditions for a fair election, enabling voters to make an informed choice free from intimidation and undue pressure”³.

7. The European Parliament rejected the election results and called for a re-run under international supervision, labelling the election as evidence of democratic backsliding.⁴ In its resolution 2585(2025) of 29 January 2025, PACE asked that the Georgian authorities “immediately initiate an inclusive process ... to create an electoral environment that is conducive to genuinely democratic new parliamentary elections to be announced during the coming months”.⁵ On 10 February 2025, the Bureau of the Congress of Local and Regional Authorities of the Council of Europe called on the government of Georgia to fully respect European standards in human rights, democracy and the rule of law, “paving the way to free and fair repeat elections at the national level”.⁶

8. Following the October 2024 election protests erupted nationwide, with protesters demanding fair elections and condemning the government for stalling EU accession talks. Allegations have been made that the protests were marked by police violence against demonstrators.⁷ The Secretary General of the Council of Europe, at the end of his official visit to Georgia on 20 December 2024, “call[ed] upon the Georgian authorities to, first, refrain from disproportionate use of force; second, rapidly carry out independent, transparent and effective investigations and ensure that those responsible are held to account; and third, release all those subject to administrative detention.”⁸ The Council of Europe Commissioner for Human Rights, following his mission to Georgia from 21 to 23 January 2025, referred to “numerous credible reports of ill-treatment” and expressed “concern over the lack of accountability for allegations of unlawful arrests and excessive use of force by law enforcement and unidentified masked individuals (“titushkis”).”⁹ In their Joint statement, a number of UN Special Rapporteurs “urged the Government of Georgia to take concrete measures to prevent further violence and to investigate allegations of excessive use of force by law enforcement officials, torture and ill-treatment, and arbitrary detention of peaceful demonstrators and media workers during protests that erupted in the country in November and December 2024”; the UN rapporteurs referred to “credible reports that the police fired rubber bullets, used water cannons, pepper spray and other chemical irritants indiscriminately against the demonstrators. Hundreds of people were reportedly injured, with an unusually high proportion suffering serious head and facial injuries.”¹⁰ In its January 2025 Resolution, PACE condemned “the human rights abuses committed by the police, including the

³ PACE, Observation of the parliamentary elections in Georgia (26 October 2024), [Doc. 16079](#), 28 October 2024, para. 77.

⁴ European Parliament, [Parliament calls for new elections in Georgia | News | European Parliament](#), 28 November 2024.

⁵ PACE, [Resolution 2585 \(2025\)](#), 29 January 2025, Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of Georgia, § 11.1.

⁶ Congress of Local and Regional Authorities, [Statement](#) by the Congress Bureau on the urgent situation in Georgia, 10 February 2025.

⁷ See, for example, Public Defender of Georgia, [Statement](#) of 3 December 2024 and [Briefing](#) on Current Developments, 5 December 2024; GYLA, Report “[Civil Rights Facing Increased Police Terror](#)”, 27 December 2024.

⁸ COE, Secretary General concludes visit to Georgia, [Statement](#) of 20 December 2024.

⁹ COE Human Rights Commissioner, Statement of 24 January 2025: [Georgia: Protect freedom of assembly and expression, ensure accountability for human rights violations and end stigmatisation of NGOs and LGBTI people - Commissioner for Human Rights](#).

¹⁰ UN Special Rapporteurs (Dr. Alice Jill Edwards, Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Mr. Morris Tidball-Binz, Special Rapporteur on extrajudicial summary or arbitrary executions; Ms. Gina Romero, Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; Ms. Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Ms. Irene Khan, Special Rapporteur on the right to freedom of opinion and expression; Ms. Margaret Satterthwaite, Special Rapporteur on the independence of judges and lawyers), Joint statement of 28 January 2025, [Georgia must investigate use of force by police during demonstrations: Experts | OHCHR](#).

brutal use of force against demonstrators, in violation of freedom of assembly, in the context of a progressive erosion of fundamental rights and freedoms, the dismantling of democratic safeguards, the shrinking space for civil society and the politicisation of State institutions that began well before these elections”.¹¹

9. The Venice Commission delegation was informed on 5 February 2025 that the Ombuds office visited around 400 persons held in detention facilities under administrative detention since late October 2024.

B. Amendments to the CAO and the Assemblies Law

10. On 13 December 2024, in the context of the ongoing protests, the new Parliament adopted several legislative amendments, including to the CAO and the Assemblies Law. According to the Ombudsman, “this legislative process was conducted in an expedited manner, without the involvement of stakeholders or relevant specialists.”¹² On 6 February 2025, Parliament adopted additional amendments to the CAO and the Assemblies Law. Reportedly, the Ombudsman observed that the proposed amendments posed a serious threat to fundamental rights and urged Parliament to reject an expedited examination of the legislative package in favour of the standard legislative procedure.¹³ The opposition parties, remaining outside the parliamentary process, did not participate in the elaboration of either set of amendments.

- New administrative offences and expansion of existing ones

11. The December 2024 amendments to the Assemblies Law introduced new prohibitions in the context of public assemblies and demonstrations: (i) possession of pyrotechnic items; (ii) possession of a device with a laser beam or sharp light beam, the use of which may interfere with the activities of state officials or the proper functioning of technical equipment at their disposal; and (iii) covering the face with a mask or any other means. These prohibitions were incorporated into the offence of “violation of the rules for organising and holding an assembly or demonstration” under the CAO (Article 174¹ of the CAO).

12. The CAO has also been amended to include new offences relating to the import, export, sale, purchase and use of pyrotechnic items in contravention of national regulations; illegal wearing of police uniforms or attributes and clothing/attributes similar to police uniforms or attributes. The offence of “failure to fulfil parental duties” was expanded to include new offences which, if committed by minor children, will lead to administrative liability for parents. The February 2025 amendments introduced a new offence of “verbal insult, swearing or other offensive actions against a Georgian state-political official, public officer” (Article 173¹⁶ of the CAO).

- Increased sanctions for administrative offences

13. The December 2024 amendments increased penalties for several administrative offences, including: violation of the rules for organising and holding an assembly or demonstration (Article 174¹ of the CAO); defacement of the appearance of a territory within the administrative boundaries of a municipality (Article 150 of the CAO); defacement of the appearance of Tbilisi city municipality (Article 150² of the CAO); and vandalism (Article 166² of the CAO).

14. The February 2025 amendments increased the possible length of administrative detention (as a penalty) to 60 days (instead of 15 days). The amendments again reviewed the offence of

¹¹ PACE, [Resolution 2585 \(2025\)](#), 29 January 2025, Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of Georgia, § 5.

¹² Public Defender’s [Statement on Multiple Legislative Amendments](#), 13 December 2024.

¹³ Civil Georgia, [Ombudsman Calls not to Fast-Track Repressive Legislative Changes](#), 4 February 2025.

“violation of the rules for organising and holding an assembly or demonstration” (Article 174¹ of the CAO) and further increased the fines for certain categories of violations within that offence. Moreover, the length of administrative detention for certain violations within that offence was extended to 60 days. Likewise, the fines and the length of possible administrative detention were increased for offences such as minor disorderly conduct (Article 166 of the CAO) and non-compliance with a lawful order of a law-enforcement officer (Article 173 of the CAO). The maximum sanction for a repeated offence of vandalism was increased to 60 days of administrative detention (Article 166, paragraph 2 of the CAO).

- *Expanded grounds for administrative arrest*

15. According to Article 244 of the CAO in its pre-amendments formulation, in order to prevent administrative offences, when other measures have been exhausted, the administrative arrest of a person shall be permitted to identify the person suspected of the offence, to draw up an administrative offence protocol (if necessary but not possible on the spot), to timely and duly consider the administrative offence case, and to enforce a ruling on the case. Additionally, personal inspection, search of belongings, and seizure of belongings and documents may be carried out. Article 247 of the CAO stipulates that detention following an arrest must not exceed 24 hours, though it may be extended for additional 24 hours if necessary to obtain evidence.

16. The December 2024 amendments supplemented Article 244 of the CAO with the following additional grounds for administrative arrest: the necessity to present the offender to court in a timely manner to prevent delays in the case, to prevent evasion from participating in administrative proceedings, and to prevent the repeated commission of an administrative offence.

- *Revised rules in the Assembly Law regarding the manner of exercising freedom of assembly*

17. The February 2025 amendments provided, *inter alia*, a definition of "spontaneous assembly/demonstration" and introduced a duty to notify local authorities "immediately, within a reasonable time" of a spontaneous assembly or demonstration (Article 8, paragraph 1¹ of the Assemblies Law). These amendments prohibited assemblies inside buildings without the owner's consent (Article 9, paragraph 1¹ of the Assemblies Law). They also imposed more detailed prohibitions on conducting assemblies that result in blocking building entrances, highways, bridges, tunnels, overpasses, railways, and transport hubs (Article 9, paragraph 3 of the Assemblies Law), or those that intentionally create obstacles to the movement of people or transport (Article 11, paragraph 2(e)).

III. Analysis

18. In its analysis of the amendments, the Venice Commission will focus only on the most pertinent changes and issues arising from discussions with the relevant stakeholders. The absence of comments on certain provisions of the amendments should not be interpreted as tacit approval of those provisions. While one state body (the Ombuds office) participated in the meetings, the refusal of other authorities to do so limited the possibility of fully considering their perspective in this analysis.

A. Applicable standards

19. The rights to freedom of assembly and expression may be restricted only under the conditions set out in international human rights instruments and in the Constitution of the Republic of Georgia. These conditions are threefold and encompass the conditions of lawfulness, legitimacy

and necessity/proportionality. All the three conditions must be met cumulatively.¹⁴ The condition of lawfulness is met, when the restriction is prescribed by law, i.e., it has a legal basis and this legal basis is precise, certain and foreseeable, so as to enable natural and legal persons to understand what actions are expected of or prohibited to them. Under the condition of legitimacy, restrictions must pursue one of the legitimate aims indicated in the relevant instruments. Under the condition of necessity/proportionality, restrictions must be necessary in a democratic society to achieve the legitimate aim, and they also have to be proportionate to that aim. In this context, the European Court of Human Rights (ECtHR) has affirmed that while the right to freedom of assembly – one of the foundations of a democratic society – may be subject to certain exceptions, such exceptions must be interpreted narrowly, and any restrictions must be convincingly justified.¹⁵ The ECtHR further considered that the freedom of assembly protects a demonstration that may annoy or cause offence to persons opposed to the ideas or claims that it is seeking to promote. Any measures interfering with freedom of assembly and expression other than in cases of incitement to violence or rejection of democratic principles – however shocking and unacceptable certain views or words used may appear to the authorities – do a disservice to democracy and often even endanger it.¹⁶

20. Whether the restrictions on the right to freedom of peaceful assembly are set out in statute as a general measure or result from individual applications of the law, they must be both necessary and proportionate. Necessity denotes a ‘pressing social need’ for the restriction in question; this means that a restriction must be considered imperative, rather than merely ‘reasonable’ or ‘expedient’. The means used should be proportional to the aim pursued, which also means that where a wide range of interventions may be suitable, preference should always be given to the least restrictive or invasive means. The state authorities should review and debate a range of restrictions, rather than viewing the choice as simply between non-intervention or prohibition. The reasons provided by the authorities for any restriction(s) should be relevant and sufficient, convincing and compelling, and based on a comprehensive assessment of the relevant facts. The interference should go no further than is justified by a legitimate aim.¹⁷

21. Furthermore, as appears from the case-law of the ECtHR, in order to determine the proportionality of a general legislative measure, the ECtHR may examine the legislative choices underlying it, the quality of the parliamentary assessment of the necessity of the measure,¹⁸ as well as the scope and seriousness of the debate during the relevant law-making process.¹⁹

22. The standards and best practices of proper law-making are contained in the Venice Commission’s Rule of Law Checklist, and its Parameters on the relationship between the parliamentary majority and the opposition in a democracy: a checklist.²⁰ Under the Rule of Law Checklist, the process for making laws must be transparent, accountable, inclusive, and democratic.²¹ To satisfy this requirement, the public should have access to draft legislation and

¹⁴ Venice Commission, [CDL-AD\(2024\)020](#), Georgia - Urgent Opinion on the Law of Georgia on Transparency of Foreign Influence, § 51.

¹⁵ ECtHR, *Kudrevičius and Others v. Lithuania* [GC], no. [37553/05](#), § 142, 15 October 2015; *Navalnyy v. Russia* [GC], nos. [29580/12](#) and 4 others, §128, 15 November 2018.

¹⁶ ECtHR, *Kudrevičius and Others*, cited above, § 145.

¹⁷ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, [CDL-AD\(2019\)017](#), § 131, with further references.

¹⁸ ECtHR, *Animal Defenders International v. the United Kingdom* [GC], no. [48876/08](#), § 108, ECHR-2013 (extracts) and the cases cited therein, *Bayev and Others v. Russia*, nos. [67667/09](#) and 2 others, § 63, 20 June 2017; *Ognevenko v. Russia*, no. [44873/09](#), § 69, 20 November 2018.

¹⁹ ECtHR, *Hirst v. the United Kingdom (no. 2)* [GC], no. [74025/01](#), 6 October 2005, § 79.

²⁰ Venice Commission, [CDL-AD\(2019\)015](#), Parameters on the Relationship between the Parliamentary Majority and the Opposition in a Democracy: a Checklist.

²¹ Venice Commission, [CDL-AD\(2016\)007rev.](#), Rule of Law Checklist, Benchmarks A.5.

should have a meaningful opportunity to provide input.²² Where appropriate, impact assessments should be made before legislation is adopted.²³

B. Legislative process

23. The Parliament adopted the amendments in question amidst mass political rallies, in the absence of opposition MPs who had refused to take their seats or boycotted the new parliament following the October 2024 elections. The Parliament of Georgia adopted these amendments through an accelerated procedure, with all three readings and the final adoption taking place within a few days. The December 2024 amendments were considered between 11 and 13 December 2024, while the February 2025 amendments went through all three readings on 5 and 6 February 2025.

24. Given this context, the opposition was not involved in the drafting of the amendments. Moreover, it appears that relevant stakeholders were not consulted, with the sole possible exception of the law enforcement authorities, who however were actively engaged with protesters during the ongoing rallies and reportedly applied the CAO extensively. The Ombudsman condemned the rushed and non-inclusive manner in which the amendments were adopted (see paragraph 10 above).

25. The Venice Commission is concerned that the amendments in question were adopted in a rushed manner without the necessary consultations with civil society and other relevant stakeholders. This is problematic from a democratic perspective as these procedural deficiencies raise the question of the legitimacy and acceptability of the amendments. The effectiveness of amendments, irrespectively of their “coercive power”, depends *inter alia* on whether or not the amendments are in conformity with justice and fairness in the eyes of the community whose behaviour it is designed to determine.²⁴ Furthermore, no impact assessments appear to have been carried out. The second set of far-reaching amendments was adopted before the effect of the first set could be analysed. All this is even more problematic in the context of reports and allegations about infringements of basic human rights (see paragraph 8 above).

26. In conclusion, both the December 2024, and even more so the February 2025 amendments, touching upon a wide range of human rights, were adopted through a seriously deficient process, lacking an appropriate inclusive approach and failing to ensure a proper assessment of the proportionality of the measures introduced. The Venice Commission recommends that the authorities revert to these amendments and conduct proper law-making procedure, involving all the relevant stakeholders, and ensure adequate impact assessment measuring proportionality of the restrictions and sanctions at issue. The question of proportionality will be further addressed in the subsequent sections of this Opinion.

C. Bans and other restrictive provisions

27. The Venice Commission notes that the amendments introduced a number of restrictive provisions and bans, which have significant impact on the exercise of fundamental rights and freedoms, including the right to freedom of assembly. Some of these provisions are framed in broad terms, raising concerns about their foreseeability and proportionality.

28. The explanatory notes accompanying the relevant bills justify the amendments by broadly referring to the protection of public safety, and the life and health of citizens, alongside the need

²² Venice Commission, [CDL-AD\(2016\)007rev](#), Rule of Law Checklist, Benchmarks A.5.iv.

²³ Venice Commission, Rule of Law Checklist, Benchmarks A.5.v.

²⁴ See Venice Commission, [CDL-AD\(2021\)023](#), Opinion on the Compatibility with International Human Rights Standards of Law No. 7262 on the Prevention of Financing of the Proliferation of Weapons of Mass Destruction of Turkey, § 84.

to ensure the stable and smooth functioning of the state. While these aims include legitimate ones, there is no indication that a thorough analysis was carried out to evaluate or substantiate the proportionality of all the measures introduced.

D. Ban on using pyrotechnic items

29. The Assemblies Law has been amended to include a prohibition on the use of pyrotechnic items during gatherings and demonstrations (Article 11, paragraph 2(a)). The ban on possessing pyrotechnics during public assemblies can be justified, as pyrotechnic items are often considered hazardous due to the potential risk of injury, fire, or panic in large crowds. Such a regulation is not inherently disproportionate and similar provisions can be found in other jurisdictions. However, the interpretation and application of this provision by domestic authorities will be crucial. Authorities must ensure that sanctions are applied with due regard for the level of danger posed by different types of pyrotechnic items, ensuring a careful and proportionate response.

E. Ban on using devices with laser beams or sharp light beams

30. The amendments introduce prohibition on possessing, during gatherings and demonstrations, “devices with laser beams and/or sharp light beams, the use of which may interfere with the activities of representatives of state agencies and/or the proper functioning of technical means at their disposal,” (Article 11, paragraph 2 (a¹) of the Assemblies Law). This provision appears to offer quite broad discretion to the authorities: (i) in determining what constitutes a device with a laser or sharp light beam; (ii) in assessing the intensity or sharpness of the light beams; and (iii) in applying this provision based merely on the potential for interference with state agents' activities.

31. In light of these open-ended formulations, the new provision could benefit from further clarifications to ensure its foreseeability and proportionality in relation to the freedom of assembly.

F. Ban on covering the face with a mask or other means

32. The December 2024 amendments introduced a ban on covering the face “with a mask or any other means” during assemblies (Article 11, paragraph 2 (a²) of the Assemblies Law). The Venice Commission has previously addressed similar issues and has maintained that the wearing of masks and other face coverings at assemblies for expressive purposes is a form of communication protected under the rights to freedom of speech and assembly. Masks may be worn to protect participants from retaliation, express particular viewpoints, or convey religious beliefs. The wearing of masks or other face coverings at a peaceful assembly should not be prohibited where there is no demonstrable evidence of imminent violence; an individual should not be required to remove a mask unless his/her conduct creates probable cause for arrest and the face covering prevents his/her identification.²⁵

33. The current rule is formulated in an unconditional manner, without specifying the circumstances under which assembly participants (i) may cover their faces, (ii) may not cover their faces, or (iii) may be asked to uncover their faces. Furthermore, the reference to “any other means” that cover the face is broadly worded, leaving individuals uncertain as to what is prohibited. This lack of specificity could result in inconsistent enforcement and may include items such as scarves, hats, or medical face coverings, causing confusion for both the public and law enforcement authorities. As it stands, the rule grants excessive discretion to law enforcement

²⁵ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, [CDL-AD\(2019\)017](#), § 153; Venice Commission, [CDL-AD\(2013\)003](#), Opinion on Federal Law No. 65-FZ of 8 June 2012 of the Russian Federation amending Federal Law No. 54-FZ of 19 June 2004 on Assemblies, Meetings, Demonstrations, Marches and Picketing and the Code of Administrative Offences, § 28.

agencies in applying this provision, lacking both foreseeability and proportionality in its enforcement. The provisions should be amended accordingly.

G. Ban on wearing police uniform or clothing/attributes similar to police uniform

34. Similar concerns arise regarding the new Article 198³ of CAO, as introduced by the December 2024 Amendments. The provision prohibits the illegal wearing of police uniforms or attributes, as well as clothing or attributes "similar to police uniforms." While the prohibition on the illegal wearing of police uniforms or attributes is clear, the ban on clothing and attributes "similar to police uniforms" is vague, to the extent that it does not qualify the scope of "similarity" (specific colours, patterns, badges, or insignia, or even just style). This lack of clarity could result in individuals being uncertain about what is legally permissible and, ultimately, grant authorities excessive discretion, which could lead to inconsistent enforcement.

35. In the Venice Commission's opinion, the provision should therefore be amended to specify what constitutes "similar clothing and attributes" to police uniforms. It would be necessary to include clear descriptions of prohibited elements, such as specific insignia, badges, or uniform designs unique to law enforcement.

H. Spontaneous assemblies

36. The February 2025 amendments introduced provisions concerning spontaneous assemblies. These amendments define an assembly as spontaneous when it is held in response to an important public event, unplanned and unforeseeable in advance (Article 3 (b¹) of the Assembly Law). They further stipulate that in the case of a spontaneous assembly, it is permissible to submit a notification about the organisation and holding of the assembly to the municipality, without adhering to the deadline established for prior notifications. However, the notification must be submitted "immediately, within a reasonable period of time" once the person responsible for the organisation of the assembly becomes aware of the details regarding the event; the municipality may determine a different form and procedure for submitting the notification (Article 8, paragraph 1¹).

37. The Venice Commission has observed that assemblies may take place without any advance planning in direct response to some occurrence, incident, other assembly, or widely disseminated statement of public interest and a perceived need for an immediate reaction. The emergence of new technologies has greatly enhanced the possibility of spontaneous assemblies, and these should be regarded as an expected (rather than exceptional) feature of a democracy. All reasonable and appropriate measures should be taken to ensure that spontaneous and non-notified assemblies are facilitated and protected in the same way as assemblies that are planned in advance.²⁶ According to the ECtHR's case-law, there may be special circumstances, where an immediate response to a current event is warranted in the form of a spontaneous assembly and justifying a derogation from the strict application of the notification or authorisation time-limits.²⁷

38. The new rule provides a derogation from the duty of prior notification for spontaneous assemblies, allowing the notification to be submitted immediately, within a reasonable timeframe. This derogation is to be welcomed. However, the amendments also allow the municipality to determine a procedure for submitting notifications regarding spontaneous assemblies. The Venice Commission recommends that the procedure for notifying about spontaneous assemblies be explicitly defined within the Assemblies Law in a manner that ensures uniformity and foreseeability and avoids unnecessarily complex and burdensome steps. A broad delegation to

²⁶ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, [CDL-AD\(2019\)017](#), §§ 22 and 79, with further references.

²⁷ ECtHR, *Lashmankin and Others v Russia*, app. nos. [57818/09](#) et al., § 452, 7 February 2017.

municipal authorities fails to guarantee uniformity, stability and foreseeability. While the notification requirement should serve as a mechanism enabling the authorities to fulfil their positive obligations under Article 11 of the ECHR, such a procedure must not be overly burdensome, potentially discouraging spontaneous demonstrations.

39. It is noteworthy that the February 2025 amendments expand the definition of "organiser" of the assembly to include any person "who leads and/or otherwise organises the holding of an assembly" (Article 3(e) of the Assemblies Law). However, it is important to distinguish the role of the organiser who is the person or persons with primary responsibility for the assembly²⁸ from the role of the leader of the assembly, as these roles do not necessarily coincide. The Commission recommends amending this provision to ensure a clear distinction between these two roles, removing references to the "leaders" and ensuring narrow meaning of the term "organiser".

I. Administrative arrest

40. As noted above (paragraphs 15 and 16 above), the December 2024 amendments expanded the provisions of Article 244 of the CAO regarding the administrative arrest. The new grounds introduced in Article 244 include: the necessity to present the offender to court in a timely manner to prevent delays in the case, to prevent evasion from participating in administrative proceedings, and to prevent the repeated commission of an administrative offence. While these grounds may pursue legitimate aims, preventive measures nonetheless must be carefully balanced and must not be used as essentially punitive measures or pre-emptive arrests without clear justification and due process guarantees.

41. The Venice Commission further notes that the ECtHR has ruled in one of the recent cases that administrative arrest in Georgia "appears to have been an automatic measure, without any assessment as to its necessity. ... it does not appear that the domestic law required the authorities to differentiate between the grounds listed in paragraph 1 of Article 244 of the CAO or to justify their decision as to the necessity of administrative detention pending the administrative offence proceedings."²⁹

42. Moreover, the ECtHR examined whether there was an effective remedy against administrative arrest and detention under Georgian law. After analysing the available legal avenues, the Court concluded that the effectiveness of domestic remedies was not sufficiently certain in practice.³⁰ The lack of an effective remedy in this area has been acknowledged by other stakeholders.³¹

43. As a separate issue, the Venice Commission notes that the inclusion of a new ground for administrative arrest, namely "preventing the repeated commission of an administrative offence", raises additional concerns. This provision creates a broad possibility to arrest a person solely based on the risk of committing an administrative offence in the future. In this regard the ECtHR has stated that, firstly, Article 5 § 1 of the ECHR does not permit a policy of general prevention directed against an individual or a category of individuals who are perceived by the authorities as being dangerous or having the propensity to commit unlawful acts. In order for such a preventive detention to be justified under Article 5 § 1, the authorities must demonstrate convincingly that the person concerned would be likely to be involved in the committal of a concrete and specific

²⁸ Venice Commission, OSCE / ODIHR, [CDL-AD\(2010\)049](#), Interim Joint Opinion on the Draft Law on Assemblies of the Republic of Armenia, § 40.

²⁹ ECtHR, *Dzerkorashvili and others v. Georgia*, no. [70572/16](#), § 104, 2 March 2023.

³⁰ ECtHR, *Dzerkorashvili and others v. Georgia*, no. [70572/16](#), §§ 77-87, 2 March 2023.

³¹ See, for example, EU Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, 2024 Communication on EU enlargement policy, [2024 Georgia Report](#), Brussels, 30.10.2024, SWD(2024) 697, page 40.

offence.³² Secondly, in order to be proportionate to such a serious measure as deprivation of liberty, the concrete and specific “offence” must also be of a serious nature, involving a risk to life and limb or significant material damage.³³ Thirdly, the preventive detention should cease as soon as the risk has passed, which requires the authorities to monitor effectively the circumstances relating to the risk of offence, and to limit the duration of the detention to what is strictly necessary on the basis of such monitoring.³⁴

44. This new ground for arrest, aimed at preventing future offences, has not been accompanied by further clarifications in the CAO regarding the procedure for its application, thereby undermining its foreseeability. As to its proportionality, the provision is included in the CAO, which is not dealing with serious offences, as those are dealt with under the Criminal Code and the Code of Criminal Procedure. It remains unclear why existing legal means under the CAO are considered insufficient to address the risks of potential re-offending. Lastly, no safeguards have been introduced to ensure that the duration of such preventive detention is determined through effective monitoring of the circumstances that justify it, and that it is limited to the period strictly necessary. Against this background, the necessity of such amendment has not been established.

45. Overall, it is essential that the grounds introduced in Article 244 of the CAO, including the new ones, do not permit arbitrary arrest and detention. To achieve this, clear criteria in line with Article 5 of the ECHR should be introduced for conducting individualised assessments before administrative arrest is ordered. Authorities must justify the necessity of such a measure in each case, considering less intrusive alternatives, such as a summons. Furthermore, an effective remedy should be available, ensuring timely review and adequate redress.³⁵ The Venice Commission recommends that the relevant provisions of the CAO be revised accordingly.

J. Increase of penalties for administrative offences

46. Another serious separate issue concerns the harsher penalties for administrative offences that may be imposed in the context of the freedom of assembly. As it was already stated by the Venice Commission, unnecessary or disproportionately harsh sanctions for behaviour during assemblies could, if known in advance, inhibit the holding of such events and have a chilling effect that may prevent participants from attending. Such sanctions could thus constitute an indirect violation of the freedom of peaceful assembly.³⁶

47. The recent amendments to the CAO envisage significant sanctions on both participants and organisers of peaceful assemblies for a wide range of administrative offences that may be committed during public gatherings. The February 2025 amendments have increased the possible length of administrative detention (as a penalty) fourfold, from 15 to 60 days. This new maximum for administrative detention can now be imposed for certain categories of violation of rules related to organising and holding an assembly (Article 174¹ of the CAO). Furthermore, the 60-day detention applies to offences such as minor disorderly conduct (Article 166, paragraph 2), vandalism (Article 166², paragraph 2), non-compliance with a lawful order of a law-enforcement officer (Article 173), and verbal insults, swearing, or other offensive actions against a Georgian state-political official or public officer (Article 173¹⁶, paragraph 2). These provisions

³² ECtHR, *Ostendorf v. Germany*, no. [15598/08](#), § 66, 7 March 2013; *S., V. and A. v. Denmark [GC]*, app. nos. [35553/12](#), [36678/12](#) and [36711/12](#), §§ 89-91, 22 October 2018.

³³ ECtHR, *S., V. and A. v. Denmark*, cited above, § 161; *Ostendorf v. Germany*, cited above, § 101.

³⁴ ECtHR, *S., V. and A. v. Denmark*, cited above, § 161.

³⁵ The Venice Commission also recalls that when police forces wearing masks are deployed, they must remain identifiable. See in this regard ECtHR, *Hentschel and Stark v. Germany*, no. [47274/15](#), § 91, 9 November 2017; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Germany: Visit 2015, [CPT/Inf \(2017\)13](#), § 21; see also Montenegro: Visit 2017, [CPT/Inf \(2019\)2](#), § 22; Montenegro: visit 2022, [CPT/Inf \(2023\)10](#), § 39.

³⁶ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly, [CDL-AD\(2019\)017](#), § 222, with further references.

are of general application and not limited to non-violent public gatherings, however they can be fully applied in the context of peaceful assemblies. Ultimately, it is for the authorities examining individual cases to determine the appropriate sanction in each case, distinguishing, in particular, the violent acts that are unrelated to peaceful assemblies. However, the severity of the potential custodial penalties in this context undoubtedly has a chilling effect on the exercise of freedom of assembly and freedom of expression. In this context, it is recalled that in principle, a peaceful demonstration should not be rendered subject to the threat of a criminal sanction,³⁷ and notably to deprivation of liberty.³⁸ In the context of the exercise of the freedoms of assembly and expression, the Venice Commission considers that such custodial sanctions appear particularly harsh and disproportionate and should be reviewed.

48. Similarly, there is cause for concern with regard to the substantial increase in pecuniary sanctions. In some cases, the penalties have been increased tenfold. For instance, Article 174¹ (violation of rules for organising and holding an assembly) imposes penalties that have been increased tenfold for a broad range of administrative offences arising from violations of Articles 9, 11, and 11¹ of the Assemblies Law (from 500 GEL³⁹ to 5,000 GEL⁴⁰ for participants of the assembly). Furthermore, the increased fines are likely to impose additional deterrents on the organisers of the assembly. Various violations by organisers of Article 174¹ of the CAO may result in fines ranging between 5,000 GEL and 20,000 GEL.⁴¹

49. According to the official data available on the website of the National Statistics Office of Georgia, the average monthly nominal earnings in the 3rd quarter of 2024 amounted to 2,056.68 GEL.⁴² In light of this statistics, the fines provided in the amendments to the CAO are considerably high, and as such, they have a chilling effect on those willing to participate in or organise public assemblies, indicating to a disproportionate restriction of the right to peaceful assembly. The particularly high level of sanctions for organisers of assemblies, combined with the incorrect definition of who is an organiser (as discussed in paragraph 39 above), can have an even stronger chilling effect on the active part of civil society.

50. Overall, financial penalties must be proportionate to the offence and consider the socio-economic context of offenders. Penalties for minor offences that do not threaten to cause, or result in, significant harm to public order or to the rights and freedoms of others should accordingly be low and the same as minor offences unrelated to assemblies. In cases involving minor non-violent administrative breaches, it may be inappropriate to impose any sanction on assembly participants or organisers.⁴³ The Venice Commission therefore recommends that the necessity of increasing the fines be reviewed and, if deemed indispensable, the fines be harmonised with these principles, taking into account the economic situation in the country and striking a proper balance between the interests of participants and organisers of public gatherings in exercising their right freely, and the legitimate interest of the state in sanctioning and preventing unlawful actions.

IV. Conclusion

51. At the request of the President of the Parliamentary Assembly of the Council of Europe, the Venice Commission has assessed, through its urgent procedure, the amendments adopted on

³⁷ ECtHR, *Akgöl and Göl v. Turkey*, nos [28495/06](#) and [28516/06](#), § 43, 17 May 2011.

³⁸ ECtHR, *Gün and Others v. Turkey*, no. [8029/07](#), § 83, 18 June 2013.

³⁹ Approx. 168 EUR.

⁴⁰ Approx. 1683 EUR.

⁴¹ Approx. 6734 EUR

⁴² Approx. 692 EUR, see the [website](#) of the National Statistic Office of Georgia.

⁴³ Venice Commission, Opinion on the Draft Law of Public Gatherings in Kosovo, [CDL-AD\(2020\)030](#), § 52.

13 December 2024 and 6 February 2025 to the Code of Administrative Offences and the Law on Assemblies and Demonstrations of Georgia.

52. The analysis of the legislative process shows that the bills were adopted in a rushed manner, without the involvement of the relevant stakeholders. This undermines the legitimacy of the amendments, particularly considering the broader political context of mass political rallies after controversial elections and the impact which they have on such political protest. There is no indication that any impact assessments were carried out to evaluate or justify the proportionality of the extensive amendments introduced in two stages. As a result, the law-making process can be regarded as fundamentally flawed.

53. The new rules introduced by the amendments contain a number of vague and broadly framed provisions, granting the authorities excessively broad discretion in their application. This undermines the foreseeability of the legal framework and impairs legal certainty in the exercise of fundamental freedoms. The lack of clarity in the legal framework increases the risk of abuse.

54. Moreover, the necessity and proportionality of the introduction of various restrictive measures in the amendments have not been adequately justified. The new harsh custodial penalties, along with the substantial increase in fines for administrative offences, appear excessive. These measures are likely to have a chilling effect on the exercise of the freedoms of assembly and expression.

55. The amendments to the CAO and the Assemblies Law, adopted in a rushed manner in December 2024 and February 2025, introduce numerous restrictions on freedom of assembly and other fundamental rights, which appear to be incompatible with the principles of lawfulness, necessity, and proportionality. It is therefore essential that the authorities revisit these amendments and undertake a proper law-making process, ensuring the meaningful involvement of all relevant stakeholders. A comprehensive impact assessment would help ensure that any restrictive measures remain strictly necessary and proportionate to the legitimate aims they seek to achieve. In this context, the Venice Commission encourages the authorities to take into account the recommendations set out in this Opinion.

56. In this regard, the Venice Commission puts forward the following key recommendations:

- 1) Reviewing the nature and severity of the sanctions that may be applied in the context of freedom of assembly and freedom of expression;
- 2) Introducing clear criteria in line with Article 5 § 1 of the ECHR for individualised assessments before administrative arrest is ordered;
- 3) Providing an effective remedy against administrative arrest and detention (as a preventive measure), ensuring timely review and adequate redress;
- 4) Defining specific elements to ensure a narrow meaning of the prohibition on laser and light-beam devices;
- 5) Clarifying and narrowing the ban on face coverings, specifying the conditions under which they are prohibited;
- 6) Defining precisely the scope of “clothing and attributes similar to police uniforms” to ensure a narrow meaning;
- 7) Providing a statutory procedure for the notification of spontaneous assemblies once they have commenced.

57. The Venice Commission remains at the disposal of the Parliamentary Assembly and of the Georgian authorities for further assistance in this matter.