Repressive legislative amendments

Georgian Dream has been confronting the large-scale protests started on November 28, 2024, with an unprecedentedly large and disproportionate police forces. Along with illegal arrests, incited violence and use of excessive force by law enforcement officers, Georgian Dream is trying to suppress large-scale protests by adopting repressive legislation.

The repressive legislation was adopted in two stages, in a hastened manner. The amendments are comprehensive and include, among other things, changes to the Criminal Code, the Administrative Offences Code and the Election Code, as well as the Law on Assemblies and Demonstrations, the Law on Police, the Law on State Protection and the Law on Public Service.

The laws adopted are repressive and punitive in nature. The amendments contradict the Constitution of Georgia, the Universal Declaration of Human Rights, the European Convention on Human Rights, the Covenant on Civil and Political Rights and the practice of the European Court of Human Rights. On March 3, the Venice Commission published a report critically assessing the adoption of legislation restricting freedom of assembly and expression. According to the report, the amendments contain vague provisions, which increase the risks of abuse of the right. In addition, the increased sanctions fail to meet the test of proportionality and necessity.

"Georgian Dream" against civil society organizations and free media

Adoption of anti-constitutional laws by Georgian Dream is not new. In May of last year, despite large-scale protests and the veto used by the President, the **Law on Transparency of Foreign Influence** was adopted in three readings. The law, in its essence, aims to severely restrict the existence of free media and civil society organizations in the country. Civil society organizations continue to litigate both in the Constitutional Court of Georgia and the Strasbourg Court of Human Rights. In case the relevant actors evade registration, they will be fined GEL 25,000. The initial fine for failure to submit a declaration is GEL 10,000, and then a monthly fine of GEL 20,000 is provided. In case of failure to submit information requested by the Ministry of Justice of Georgia, a natural person will be fined GEL 5,000.

In early February 2025, Georgian Dream announced another wave of repressive legislation - against the media and civil society organizations. On February 24, 2025, the party introduced both draft laws in the Georgian Parliament.

***

One of the draft laws registered on February 24 is the Foreign Agents Registration Act (FARA), which is literally translated from the American version and, among other things, contains words such as: "Congress", "President of the United States", and so on.

The draft law was unanimously supported by the Legal Issues Committee on March 3, and on March 4, the Act was put to a vote at the plenary session. 84 members of Georgian Dream supported the draft law, and not a single person voted against it. According to the representatives of the party, after the adoption of this law, the currently applied so-called Russian law will be repealed.

Unlike the"Russian law" (media and civil organizations that receive more than 20% of their annual income from other countries), the new version applies to natural persons, any type of association, initiative groups, etc. In addition, the current law only provides for a monetary fine as a sanction (failure to pass registration, to submit a declaration, or to provide information), while the new draft law provides for criminal liability. In particular, in case of non-registration, the heads of the organization may be held criminally liable - up to 5 years in prison or a fine. In case of failure to provide/properly provide information, an individual (employee of the organization) may be held criminally liable for a term of up to 6 months (however, the draft amendments to the Criminal Code only provided for imprisonment for up to 5 years).

In addition to the obligation to register as an agent, submit a declaration and provide information, the draft law also provides for the obligation to submit two copies of any information material to the relevant body and an open statement that the mentioned information is being disseminated by an agent.

The draft law is expected to be adopted in the third reading in early April. According to the transitional provisions, it will come into force in June.

In the United States of America, the aforementioned law (despite the fact that the Georgian draft law is its analogue) applies only to the organizations and individuals who act directly on behalf of another country and try to promote their interests. In the United States of America, there are a number of civil society organizations that are funded by another country, although they are not obliged to register as agents. Based on the American legal system and the existence of independent institutions, the courts interpreted the law narrowly, therefore, it has not been widely applied.

The recent developments of Georgia (toughened legislation, repressive policies) make it clear that the draft law has a hidden goal - to extremely limit the scope of activities of civil society organizations. In addition, this goal becomes even more obvious in the conditions of a biased judicial system of Georgia.

***

On February 28, another draft law was discussed at the session of the Procedural Issues and Rules Committee. According to draft law, participation of non-governmental organizations in the public decision-making process provided for by the Rules of Procedure of the Parliament of Georgia will no longer be mandatory.

***

In parallel with FARA, on February 24, Georgian Dream introduced another draft law in the Parliament, which provides for the legalization of censorship/self-censorship by amending the Law of

Georgia on Broadcasting. A number of norms contained in the draft law are directed against independent media and completely ignore the self-regulation mechanism. The aforementioned draft law was also adopted in the first reading on March 4.

- **The draft law prohibits the broadcaster from receiving foreign funding** (both direct monetary and other types of material assistance). The only exceptions are commercial advertising, teleshopping, sponsorship and product placement. However, due to the lack of advertising funding, it will be impossible for the broadcaster to continue operating (especially in the regions).
- **If the law is adopted, the role of the self-regulation mechanism will be extremely reduced.** It will be possible to file a complaint against the broadcaster with the Communication Commission, which can impose a fine on the broadcaster, suspend or revoke its license, while filing a complaint within the framework of the self-regulation mechanism will acquire only a formal character.
- **Interference in editorial policy becomes legal.** The draft law further increases the mandate of the National Communication Commission (the Commission pursues the political interest of Georgian Dream). With the new norm, the Communications Commission will be able to intervene in the editorial policy of the broadcaster and control the coverage of political and other issues (namely, how objectively they are covered). According to the relevant norm, all alternative opinions must be correctly presented in the programmes.
- **The draft law version introduces restrictions** - video and audio recordings on the territories of public and private institutions shall be made only with the consent of the relevant person, except for cases when the preparation of such material is justified by public interest, which shall be explained by the Communications Commission.

The draft law contains a number of general phrases that can be subject to broad interpretation. The Communications Commission will have the opportunity to decide itself whether there was a "public interest" in a specific case, whether the fact was covered "fairly", "objectively".

Homophobic and discriminatory legislation

In addition, on September 17, 2024, Georgian Dream adopted the **Law on Family Values and Protection of Minors** in the third reading. Along with a number of other problematic provisions, the law prohibits *holding a public assembly and/or demonstration that is aimed at promoting a person's affiliation with none of the biological sex and/or affiliation with a sex different from his/her biological sex, relationships between persons of the same biological sex, expressed as a sign of sexual orientation, or incest.*

***

On February 28, the Parliament began discussing the draft law on gender equality. According to the amendments, the terms "gender" and "gender identity" will be completely removed from Georgian legislation and accordingly amendments will be made to a number of legislative acts. According to the draft law, "gender issues" will be replaced with the phrase "issues of equality between women and men", and "gender intolerance" will be replaced with "intolerance to equality between women and men". Along with these changes, the draft law provides for the abolition of gender councils.

Extreme restrictions on the right to freedom of assembly

- According to the amendments made to the Law on Assemblies and Demonstrations on December 29, 2024, participants in an assembly or demonstration are prohibited from possessing any equipment of laser radiation and/or sharp radiation, the use of which may interfere with the activities of representatives of state agencies and/or the proper functioning of technical equipment at their disposal. It is also prohibited to cover a face with a mask or any other means. According to the amendments made in December, in the event of a mass violation of this provision, the assembly or demonstration shall be terminated immediately, upon request of the Ministry of Internal Affairs of Georgia. Otherwise, the police forces shall use measures provided for by international law and Georgian legislation to disperse the assembly.
- *According to the amendments, the concept of "organizer" has changed and become even more vague. An "organizer" is not only the initiator of the assembly, but also any person who "**leads and/or otherwise organizes**" an assembly, while a "responsible person" can be any person who engages in any kind of organizational activity during the assembly process.* **Accordingly, the definition of the terms actually introduces more ambiguity and allows for a broad interpretation.**
- The amendments have also introduced the concept of a spontaneous rally into legislation - a "spontaneous assembly/demonstration" is an assembly or demonstration that is unplanned, urgently held due to a **significant public event**, which could not be foreseen in advance. **What can be considered a "significant public event" is subject to broad interpretation, and the content of the assembly can also be interpreted so that to completely ignore its spontaneity.**

  In addition, the law introduces the obligation of warning the municipal executive body even in the case of a spontaneous assembly/demonstration, if it is held on the roadway, thus completely ignoring the 2023 decision of the Constitutional Court, which said that warning was impossible in case of a spontaneous rally.

  According to the amendments adopted in February, in the case of organizing/holding a spontaneous assembly/demonstration, it is permissible to file a warning without observing the 5-day term. In this case, an application must be submitted to the relevant body within a reasonable period. In such a case, the municipality may determine a different form and procedure for filing a warning.

  After determining the form, (due to its complexity), this may represent another difficulty for the participants in the rally and serve as an additional basis for fining them. In such cases (especially when the organizer is not identified), all persons, including any participant in the rally, may be fined.
- *According to the new regulation adopted in February, it is prohibited to hold assemblies or demonstrations in closed spaces and buildings without the written consent of the owner.* This also represents another additional barrier for demonstrators, especially when continuous protests are taking place at various universities. The purpose of the norm is not foreseeable. And if the owners issue a permit, they are more likely to become targets of repressive policies.

This norm may create particular difficulties for students who continuously occupy university buildings for continuous protests. They may not be able to obtain such a consent from the university, meaning that they will have an obligation to stop the protest.

- *The old edition prohibited the blocking of building entrances, highways and railways during an assembly or demonstration. The new version prohibits the blocking of bridges, tunnels, overpasses, as well as transport hubs, the disruption of which, in the opinion of the municipality, would cause significant damage to the normal functioning of enterprises, institutions and organizations and/or significantly impede traffic*. This constitutes an extreme restriction on assembly and expression, which has no legitimate aim and is contrary to the practice of the European Court.

It was not permissible to obstruct the movement of transport during a rally without an objective reason, however, after the changes, it has been prohibited to obstruct not only the movement of transport, but also the **movement of people**. **This is a vague provision and, like other new norms, allows for broad interpretation. On this basis, a protest rally can be restricted in any place, especially in crowded places.**

Restriction on the right to freedom of expression

A new norm has emerged in the Administrative Offences Code adopted in 1984:

- *Verbal abuse, cursing, persistent insult and/or other offensive actions against a Georgian state-political official, political official, civil servant, person equated with a civil servant and/or public servant, during the performance of official duties or in connection with the performance of official duties or activities, is punishable by a fine from GEL 1,500 to GEL 4,000 or administrative detention for a term of up to 45 days. Repeated commission of the offence - by a fine from GEL 2,500 to GEL 6,000 or administrative detention from 5 to 60 days.*

In February, a new norm emerged in the Criminal Code as well, according to which,

- *Attacking a Georgian state-political official, political official, state servant, person equated with a state servant and/or public servant or committing other similar acts against them has become punishable by a fine or imprisonment for a term of up to three years. Committing the same act in a group, repeatedly, in the presence of a child, by setting fire or in another dangerous way, is punishable by a fine or imprisonment from two to six years. If an attack is carried out against these persons or their family members in connection with these persons' official activities, the punishment shall be a fine or imprisonment from four to seven years. In the case of the same act committed under aggravating circumstances - a fine or imprisonment from five to twelve years.*
- According to the European Court of Human Rights, public servants and **political officials have a special duty of tolerance, including when being verbally abused. This amendment completely**

ignores the standard of tolerance established for public servants and political officials, which is achieved by extreme restrictions on freedom of speech and expression.

- *With the amendments adopted in February, participants in assemblies and demonstrations are prohibited from* ***erecting a temporary structure*** *if its erection poses a threat to the participants in the assembly or demonstration or other persons, impedes the police from maintaining public order and safety, and is not related to the holding of the assembly or demonstration.*
  The Georgian Dream party prepared a draft law restricting the placement of temporary structures back in 2023. In its opinion on the draft law, the OSCE/ODIHR indicates that such a ban on the placement of temporary structures does not comply with the legitimate goals set out in the European Convention on Human Rights or UN conventions, and is unjustified. Accordingly, it considered their adoption inadmissible. In addition, according to the practice established by the European Court of Human Rights, such restrictions constitute a violation of the right to freedom of expression.

Tougher sanctions/penalties that have a chilling effect on the rights to freedom of assembly and expression

In case of violation of the amendments made to the Law on Assemblies and Demonstrations in December and February, the Administrative Offences Code provide for the strictest sanctions:

- A fine of GEL 2,000 has been prescribed for covering a face, possessing pyrotechnic products or a laser equipment at the protest rally. In case of repeated commission of this act, the fine ranges from GEL 2,000 to GEL 5,000. Administrative detention for a term of up to 20 days with confiscation of the item used as the tool of the offence is provided for as a sanction.
- The Administrative Offences Code provides for a sanction in connection with the violation of the rule of warning a local municipal body during a protest rally held on the roadway - a fine of GEL 2,000. The same action committed by the organizer of the assembly or demonstration (on what basis is unclear) shall result in a fine of GEL 5,000. Repeated commission of this action shall result in a fine of GEL 6,000 or administrative detention for up to 60 days.
- A sanction has also been imposed for organized road blocking by vehicles or participation in group movement when the roadway is fully occupied. The amount of the fine has been set at GEL 1,000 and in addition, a one-year deprivation of driving rights has been imposed.
- The amount of the fine for unauthorized placement of protest inscriptions, posters and distortion of the appearance of the city has been increased from GEL 50 to GEL 1,000.
- Blocking the entrance to the court, holding an assembly or demonstration at the residence of a judge or at the common court of Georgia - shall result in a fine of GEL 5,000 or administrative detention for up to 60 days. The norm had only provided for administrative detention for up to 15 days.
- Holding a protest rally in a prohibited area, possessing prohibited items at the protest rally (apart from face coverings and laser equipment), and artificially blocking a roadway shall result in a fine of GEL 5,000, with confiscation of the item used as the tool of the offence, and if the violator is the organizer - GEL 15,000, with confiscation of the item used as the tool of the

offence. Repeated commission of the act shall result in a fine from GEL 5,000 to GEL 10,000 or administrative detention for a term of up to 20 days, with confiscation of the item used as the tool of the offence, and if the offender is the organizer – a fine from GEL 15,000 to GEL 20,000 or administrative detention from 5 to 60 days, with confiscation of the item used as the tool of the offence.

- A fine of GEL 5,000 and administrative detention for a term of up to 60 days is provided for the participation in a rally terminated by the decision of the Ministry of Internal Affairs.

For years, protesters have been arrested at protests on the basis of Articles 166 (petty hooliganism) and 173 (disobedience to the lawful order of the law enforcement officer) of the Administrative Offences Code. From 2021, sanctions for the violation of these articles have been toughened.

- With the amendments made in February, the sanction for petty hooliganism has been increased from GEL 1,000 to GEL 3,000. The maximum term of detention has become 20 days instead of 15 days. In case of repeated commission, it will result in a fine from GEL 3,000 to GEL 5,000 or administrative detention from 5 to 60 days. In addition, the definition of petty hooliganism has been changed, and the term "cursing in places of public gathering" has been replaced by the term "cursing in public spaces".
- Disobeying the law enforcement officer's order and/or insulting the law enforcement officer, according to the new edition, provides for a fine of GEL 2,000-5,000 and administrative detention for up to 60 days. In case of repeated offence - a fine of GEL 3,500-6,000 and detention for up to 60 days.

Changes have been made to the vandalism section as well. In particular, in case of repeated offence, the 5-day term of administrative detention has been increased to 60 days.

In the old version, a person could be fined within 4 months of the offence. With the new amendments, these terms have been extended to 6 months.

***

Along with other acts, Georgian Dream has made expedited amendments to the Criminal Code as well. The content of the legislative package and its adoption within a week demonstrate that instrumentalization of criminal legislation continues:

- Part 1 of Article 239^1 of the Criminal Code (call for violence) has been supplemented with a prison term for of up to 3 years.
- The punishment established for part 1 of Article 353 of the Criminal Code (threat or violence against a defender of public order or other representative of the authorities) has been tightened. Instead of two to five years of imprisonment, two to six years of imprisonment has been established. It is noteworthy that the change in the punishment changes the category of the crime from a less serious crime to a serious crime. Commission of a crime in a group and commission of a crime multiple times have been determined as aggravating circumstances and imprisonment of five to eight years has been determined as a punishment.
- Among other things, attacking a police officer, employee of the Special Penitentiary Service or other representative of the state or public institution "**by other generally dangerous means**" has been added as an aggravating circumstance to Article 353^1 of the Criminal Code. This is a vague

provision and allows for broad interpretation. The punishment has also been toughened - instead of two to five years of imprisonment, it is punishable by five to eight years in prison.

***

On March 4, the Parliament supported an amendment to the Criminal Code, according to which a new, Article 307[1] has been added to the Code. The amendment regulates the issue of criminal liability. It is noteworthy that the actions included in the list of "treason" are already punishable by other articles of the Code (for example, violation of the territorial integrity of Georgia, encroachment on the external security of Georgia, entry into a foreign intelligence service, disclosure of state secrets, espionage, conspiracy or rebellion to change the constitutional order of Georgia by force, sabotage, etc.)

The goal of extremely harsh sanctions/punishments is to instill fear in society and thus restrict the constitutional right to freedom of assembly and expression. This is especially true given the absence of independent institutions (judicial, investigative bodies) in the country.

Increased powers of the Ministry of Internal Affairs

- *Under the old edition, when a road was blocked, the decision to open the traffic was to be made by the executive body of the municipality.* ***According to the amendments, the Ministry of Internal Affairs will be authorized to make a decision to open the road for transport*** *if, taking into account the number of participants in the assembly or demonstration, it is possible to hold the assembly or demonstration in another way.*
- *The executive body of the municipality was also authorized to prevent an assembly or demonstration* ***on the basis of the obvious data,*** *according to which the assembly or demonstration posed an immediate threat to the constitutional order, the life and health of citizens. This authority has also been transferred to the Ministry of Internal Affairs.* **Like other norms, this norm is general and can be used at any time, without objective reasons, only at the discretion of law enforcement officers, because it is not known what this obvious data is and/or by what method it is checked.**

Risks of politicization of public service

Expedited amendments were also made to the Law of Georgia on Public Service:

- *According to the amendments, the heads of primary structural units of a public institution and their deputies are not considered public servants. This means that their contract may be terminated at any time, with one-month notice and one-month compensation.*
- *In addition, the mandatory requirements for the knowledge of the official language, having reached the age of 18 and having a public servant certificate have been abolished.*

- *With the amendments, the head of a public institution is authorized to appoint a person as the chairman of the competition commission. Accordingly, the responsibility for the selection of personnel lies with the head of the department and/or his deputy.*
- *According to the old edition, an employee was checked in accordance with the relevant procedure once a year. With the new edition, these terms have been reduced to 6 months, which is an additional lever for dismissing a person.*
- *In addition, when evaluating a public servant, if the result is unsatisfactory, he may be deprived of 20% of his salary.*

Note: Especially recently, as a result of repressive policies, people have been dismissed from a number of public institutions (without any basis) after publicly expressing a different opinion.

In December, amendments to the Law of Georgia on Police determined a simplified procedure for employment of people in the Ministry of Internal Affairs. Namely: "A person, as a rule, shall be employed in the police as a result of passing a special competition. The procedure and conditions for employing a person in the police without passing a special competition shall be determined by the order of the Minister." **There is a suspicion, especially in view of the large number of police forces involved in the recent protests, that the Ministry wants to easily employ the desired personnel through a simplified procedure, without specific requirements, which it will then actively use to suppress the protest movement.**

Risks of politicization of the cultural sphere

On February 19, another legislative package was introduced in the legislative body. Among them are changes to the Law of Georgia on Professional Theaters, according to which:

The theater management model will be changed - theaters will be headed solely by a theater director, who will be appointed by the Minister of Culture in a **state theater established by the Ministry, as well as in a state theater of the Autonomous Republics of Adjara and Abkhazia**, while in **municipal theaters** they will be appointed by the mayor. A competition may be announced when selecting a director. The Minister may consider the proposals of the recommendation councils; however, the Minister will have the right to appoint a director independently.

The issue of dismissing a director is also problematic - the grounds for dismissal are determined, including by the recommendation of the recommendation council, at the request of the theater troupe, or at the initiative of the Minister. In the case of the initiative of the Minister, the director shall be notified one month in advance and shall be given one month's salary. According to the draft law, the director may be notified 3 days in advance, but he must receive 2 months' salary as compensation.

These changes limit the creative independence of the theater, as the executive branch gains broad influence over it. In addition, based on the appointment and dismissal model, logical questions arise regarding the director's independence.

Amendments to the Election Code

In December, amendments were also made to the Election Code in an accelerated manner. The Georgian Dream party recovered the rule existing in 2017 for determining the number of majoritarian members in municipal councils, which means an increase in their number.

This change was preceded by an amendment (adopted in the spring of 2024) abolishing the minimum 40% threshold for electing majoritarian members of the municipal council. In addition, the possibility of a second round has also been excluded.