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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**OF THE COUNCIL OF EUROPE**  
**(VENICE COMMISSION)**

**GEORGIA**

**OPINION**

**ON**

**THE AMENDMENTS OF 16 OCTOBER 2025 TO  
THE ORGANIC LAW ON POLITICAL ASSOCIATIONS OF CITIZENS,  
ARTICLE 381 OF THE CRIMINAL CODE  
AND  
RELATED LEGISLATION  
(LEGAL CONSEQUENCES FOR PERSONS  
ASSOCIATED WITH PROHIBITED POLITICAL PARTIES)**

**Approved by the Council for Democratic Elections at its 88<sup>th</sup>  
meeting (Venice, 8 October 2026)**

**Adopted by the Venice Commission  
at its 148<sup>th</sup> Plenary Session  
(Venice, 9-10 October 2026)**

**On the basis of comments by**

**Ms Veronika BÍLKOVÁ (Member, Czechia)  
Mr Srdjan DARMANOVIĆ (Former Member, Expert, Montenegro)  
Mr Kaarlo TUORI (Honorary President of the Venice Commission)**

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## I. Introduction

1. By letter of 19 December 2025, Ms Zanda Kalniņa-Lukaševica, the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, requested an Opinion of the Venice Commission of the Council of Europe on the amendments of 16 October 2025 to the Organic Law on Political Associations of Citizens, Article 381 of the Criminal Code and related legislation (legal consequences for persons associated with prohibited political parties) (see the amendments to relevant laws which are included in [CDL-REF\(2026\)001](#), together with the Explanatory notes; see also the full texts of the laws, which include the amendments: Organic Law “On the Constitutional Court of Georgia”, [CDL-REF\(2026\)027](#); Organic Law “On Political Associations of Citizens”, [CDL-REF\(2026\)028](#); Election Code, [CDL-REF\(2026\)029](#)<sup>1</sup>).

2. Ms Veronika Bílková, Mr Srdjan Darmanović, and Mr Kaarlo Tuori acted as rapporteurs for this Opinion.

3. On 16 September 2026, the rapporteurs, assisted by Mr Michael Janssen and Ms Carmen Morte-Gomez from the Secretariat of the Venice Commission, held online meetings with representatives from different political groups, as well as members of several civil society organisations and international interlocutors. Representatives of the government and of the parliamentary majority declined to meet with the Venice Commission delegation. The Commission is grateful to the Council of Europe Office in Tbilisi for the excellent organisation of the meetings.

4. This Opinion was prepared in reliance on the English translation of the legal 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 on 16 September 2026. The draft opinion was approved by the Council for Democratic Elections at its 88<sup>th</sup> meeting on 8 October 2026 and it was adopted by the Venice Commission at its 148<sup>th</sup> Plenary Session (Venice, 9-10 October 2026).

## II. Background and scope of the Opinion

6. Following the parliamentary elections in Georgia of 26 October 2024,<sup>2</sup> the Georgian opposition, as well as the then President of Georgia refused to recognise the outcome of these elections, citing widespread electoral fraud, including through intimidation of voters and violations of the voting secrecy. All four opposition parties that passed the threshold for entering Parliament announced that they would not do so. Three of these opposition parties, namely “Coalition for Change”, “United-National Movement” (UNM), and “Strong Georgia” (Lelo) asked the Central Election Commission (CEC) to cancel their party list and requested that Parliament invalidate their mandates. The fourth major opposition party, “For Georgia”, initially joined the boycott, but on 28 October 2025 its 12 elected members took up their mandates. The 2024 elections were the first ones since Georgia had been granted EU candidate status in December 2023, though accession has been *de facto* halted by the EU since June 2024 due to democratic backsliding.<sup>3</sup>

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<sup>1</sup> It should be noted that the above Reference Document contains the new Election Code adopted by the Georgian Parliament on 17 December 2025. The amendments to the old Election Code which were adopted on 16 October 2025, and which are the subject of this Opinion, have been incorporated into the new Code, but the article numbers have changed. The relevant provisions are to be found in Articles 130(4)(d), 132, 150(4)), 152(6)(d), 155, 167) 172(12)(e) of the new Code.

<sup>2</sup> See e.g. Parliamentary Assembly of the Council of Europe, [Doc. 16104](#), Report “Challenge, on substantive grounds, of the still unratified credentials of the parliamentary delegation of Georgia”, para. 8.

<sup>3</sup> See [https://enlargement.ec.europa.eu/countries/georgia\\_en](https://enlargement.ec.europa.eu/countries/georgia_en). In December 2024, the European Council regretted the Georgian government’s decision to suspend the EU accession process until 2028.

7. On 13 May 2025, the Georgian Parliament adopted at final reading a legislative package amending the Organic Law “On Political Associations of Citizens”<sup>4</sup> and the Organic Law “On the Constitutional Court of Georgia”.<sup>5</sup> The amendments broadened the powers of the Constitutional Court to prohibit political parties. According to the amended Article 36 of the Law on Political Associations of Citizens, the Court may prohibit a political party “whose aim is to overthrow or violently change the constitutional order of Georgia, encroach on the country’s independence, violate its territorial integrity, or which is engaged in propaganda for war or violence, incites national, ethnic, religious or social strife, or creates or has created an armed formation” (paragraph 1), as well as a political party “whose declared purpose and/or the essence of its activities (including its personnel and/or the composition of the party list submitted to the relevant election commission) essentially repeats the declared purpose and/or the essence of its activities (including its personnel) of the party banned by the Constitutional Court of Georgia on the basis of paragraph 1 of this Article” (paragraph 2). The amendments moreover introduced expedited procedures, requiring the Constitutional Court to rule within nine months of a complaint being lodged, or within 14 days in the case of a ban based on Article 36(2) of the Law on Political Associations of Citizens.<sup>6</sup>

8. In public statements preceding the adoption of those legal amendments, the leader of the parliamentary majority, Mamuka Mdinardze, accused some opposition parties of acting against the Georgian State and argued that parties allegedly similar to the United National Movement, referred to as the “collective UNM”, should be excluded from political life, announcing the intention to seek their prohibition shortly after the local elections scheduled for 4 October 2025.<sup>7</sup> Georgian Dream Prime Minister Irakli Kobakhidze told Georgia’s Public Broadcaster on 15 October 2025 that the envisaged appeal to the Constitutional Court would ultimately target “up to ten parties, including smaller ones.”<sup>8</sup> The amendments have been sharply criticised by opposition actors and civil society organisations, including the Social Justice Center,<sup>9</sup> which have characterised them as politically motivated, excessively broadening the grounds for banning political parties, and problematic in light of the Constitutional Court’s perceived lack of independence.

9. On 16 October 2025, the Parliament adopted another legislative package, which is the subject of this Opinion, amending the Organic Law “On Political Associations of Citizens”,<sup>10</sup> the Organic Law “On the Constitutional Court of Georgia”<sup>11</sup> as well as the Election Code<sup>12</sup> and the Criminal Code of Georgia.<sup>13</sup> Under the amendments to Article 23 of the Law on the Constitutional Court of Georgia, the annulment of a political party’s registration by the Constitutional Court may – upon specific request by the claimant – trigger prohibitions on

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<sup>4</sup> Law on Amendments to the Organic Law of Georgia “On Political Associations of Citizens”, 553-IIMS-XIMP, 13 May 2025.

<sup>5</sup> Law on Amendments to the Organic Law of Georgia “On the Constitutional Court of Georgia”, 554-IIMC-XIMP, 13 May 2025.

<sup>6</sup> Article 22(4<sup>2</sup>) of the Law on the Constitutional Court of Georgia.

<sup>7</sup> See *GD Parliament Passes Amendments Paving the Way for Banning Opposition Parties*, online at <https://civil.ge/archives/681064>.

<sup>8</sup> See *GD Parliament Adopts Law Extending Party Ban to Individuals*, online at <https://civil.ge/archives/706643>. According to Mr Kobakhidze, the criterion was that “whoever has been continuously involved in sabotage against the state together with this bloody party [i.e. UNM] or force will, of course, also be affected by this appeal.”

<sup>9</sup> Social Justice Centre, *Critical Assessment of the Draft Law on the Banning of Political Parties*, 15 April 2025, online at <https://socialjustice.org.ge/en/products/partiebis-akrdzalvis-kanonproektis-kritikluli-shefaseba>.

<sup>10</sup> Law On Amendments to the Organic Law of Georgia “On Political Associations of Citizens”, 989-IVMS-XIMP, 16 October 2025.

<sup>11</sup> Law On Amendments to the Organic Law of Georgia “On the Constitutional Court of Georgia”, 988-IVMS-XIMP, 16 October 2025.

<sup>12</sup> Law on Amendments to the Organic Law of Georgia “Election Code of Georgia”, 990-IVMC-XIMP, 16 October 2025.

<sup>13</sup> Law on Amendments to the On Amendments to the Criminal Code of Georgia, 991-IVMC-XIMP, 16 October 2025.

individuals “associated” with that party from founding, leading, or joining political parties, serving in executive or supervisory party bodies, holding public or political office, or leading constitutional institutions. The package also allows for the termination of parliamentary and representative mandates and removal from electoral party lists at the request of the plaintiff in a constitutional claim. Corresponding changes to the Law on Political Associations of Citizens and to the Election Code empower authorities to deny party registration or disqualify election participation when such individuals are involved, and a related amendment to the Criminal Code introduces fines for parties that fail to comply with or obstruct enforcement of Constitutional Court decisions.

10. The legislative package of 16 October 2025 prompted strong criticism from civil society organisations – such as the Georgian Young Lawyers’ Association<sup>14</sup> and Transparency International Georgia,<sup>15</sup> which contended that the expanded prohibitions on individuals “associated” with banned parties lacked a clear constitutional basis and were inconsistent with constitutional protections for political pluralism and fair trial guarantees and were enabling arbitrary exclusion of political actors from public life.<sup>16</sup> The opposition parties “Lelo/Strong Georgia” and “UNM” filed separate lawsuits against the ruling Georgian Dream party in the Constitutional Court, asking it to assess the constitutionality of the new legislation.<sup>17</sup> In his Memorandum on Georgia published on 19 June 2026,<sup>18</sup> the Council of Europe Commissioner for Human Rights recommended that the Georgian authorities repeal or thoroughly revise legislative changes affecting the right to freedom of association and freedom of expression, including the amendments to the Organic Law on Political Association of Citizens, in accordance with Articles 10 and 11 of the ECHR and the case-law of the European Court of Human Rights (ECtHR).

11. On 28 October 2025, members of Parliament from the governing Georgian Dream party submitted a constitutional lawsuit to the Constitutional Court of Georgia seeking to have the activities of three major opposition political parties – namely the three above-mentioned parties which keep boycotting Parliament – declared unconstitutional and banned.<sup>19</sup> According to the text of the complaint made public by the Constitutional Court and reported by Georgian media,<sup>20</sup> the applicants alleged that the activities, leadership, and political objectives of these parties were identical or substantially similar to those of previously banned political forces and that they pursued aims incompatible with the constitutional order, including attempts to undermine state sovereignty and constitutional stability. The submission was accompanied by the conclusions of a Temporary Investigative Commission of Parliament tasked with examining the activities of the political authorities in power between 2003 and 2012, including the actions of their current and former officials. On 20 April 2026, the applicants withdrew their original appeal to the Constitutional Court, replacing it with a new appeal asking the Constitutional Court to ban the Federalist Party, as well as the three parties included in the original appeal. The Parliamentary Assembly of the Council of Europe noted in its Report on “The functioning

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<sup>14</sup> InterpressNews, *GYLA files amicus curiae brief with Constitutional Court regarding constitutional complaint on banning of parties*, 16 December 2025, online at <https://www.interpressnews.ge/en/article/144650-gyla-files-amicus-curiae-brief-with-constitutional-court-regarding-constitutional-complaint-on-banning-of-parties>.

<sup>15</sup> Transparency International – Georgia, *The Ban on Political Parties and Their Members Will Ultimately Undermine Democracy in Georgia*, 27 October 2025, online at [https://transparency.ge/en/blog/ban-political-parties-and-their-members-will-ultimately-undermine-democracy-georgia?utm\\_source=chatgpt.com](https://transparency.ge/en/blog/ban-political-parties-and-their-members-will-ultimately-undermine-democracy-georgia?utm_source=chatgpt.com)

<sup>16</sup> See also International Society for Fair Elections and Democracy (ISFED), 17 October 2025, [„სამართლიანი არჩევნები“ ახალ რეპრესიულ და ანტიდემოკრატიულ საკანონმდებლო ცვლილებებს აფასებს](https://www.isfed.org/en/georgia/press-releases/2025/10/17/სამართლიანი არჩევნები ახალ რეპრესიულ და ანტიდემოკრატიულ საკანონმდებლო ცვლილებებს აფასებს)

<sup>17</sup> See *Lelo, UNM Sue Back Georgian Dream in Constitutional Court*, 10 November 2025, online at <https://civil.ge/archives/710054>

<sup>18</sup> Online at <https://www.coe.int/en/web/commissioner/-/georgia-council-of-europe-commissioner-calls-for-accountability-of-law-enforcement-and-expresses-concerns-regarding-mounting-restrictions-on-democratic-freedoms>

<sup>19</sup> Felix Light, *Georgia’s ruling party will ask court to ban three largest opposition parties*, *Reuters*, 28 October 2025.

<sup>20</sup> Georgia Today, *Constitutional Court publishes lawsuit to ban three political parties*, 4 November 2025, online at <https://georgiatoday.ge/constitutional-court-publishes-lawsuit-to-ban-three-political-parties/>

of democratic institutions in Georgia”<sup>21</sup> of 3 June 2026 that this was widely believed to have been driven by a desire to reset the nine-month legal deadline for the Constitutional Court to deliver a decision on such appeals. On 21 September 2026, the applicants also included the party “For Georgia” – the only opposition party which is currently represented in Parliament – in their appeal to the Constitutional Court. Neither the original appeal nor the new appeals to the Constitutional Court included requests for “ancillary consequences” for persons “associated” with banned parties or for the parties themselves, which had been introduced by the 16 October 2025 amendments; to date, these amendments have not been applied in practice.

12. On 4 March 2026, Parliament adopted amendments to the Law on Grants, the Law on Political Associations of Citizens and the Criminal Code. These amendments are examined, in parallel, in a separate Opinion of the Venice Commission, upon request by the Monitoring Committee of the Parliamentary Assembly of the Council of Europe.<sup>22</sup> *Inter alia*, the amendments to the Law on Political Associations of Citizens bar any individual working for a “foreign agent” from joining a political party or an “organisation with declared party-political objectives” for eight years. Additionally, the leader of a political party that receives foreign funding in violation of the amended will be subject to criminal liability, with punishments ranging from fines and community service to up to six years’ imprisonment.

13. The present Opinion is limited to the 16 October 2025 amendments to the Law on Political Associations of Citizens, to Article 381 of the Criminal Code and to other related laws (namely, the Law on the Constitutional Court of Georgia and the Election Code), as specified in the request. At the same time, the Venice Commission considers that these amendments form part of a broader and closely interconnected legislative framework governing the prohibition of political parties and the legal consequences flowing therefrom, as described above. The October amendments build directly upon earlier changes adopted in May 2025. As a result, a meaningful assessment of the October 2025 amendments requires taking into account the cumulative and systemic impact of the legislative framework as a whole. That said, this Opinion does not constitute a full and comprehensive review of the entire legal framework regulating political parties and elections in Georgia. Moreover, the absence of comments on certain provisions of the October 2025 amendments should not be interpreted as an endorsement of these provisions. The Opinion focuses on key issues and indicates main areas of concern.

### **III. Domestic and International legal framework**

14. The 1995 Constitution of Georgia guarantees, *inter alia*, the principle of equality and non-discrimination (Article 11), the right to freedom of opinion and expression (Article 17), the right to freedom of association (Article 22), the right to form a political party and participate in its activities (Article 23), the right to vote and to be elected (Article 24), the right to hold public office (Article 25), and the right to a fair trial and effective judicial protection (Article 31). Most of these rights may be subject to restrictions but only in accordance with the three-part test of legality, legitimacy, and necessity in a democratic society, including proportionality.

15. By means of Article 4(5) of the Constitution of Georgia, “an international treaty of Georgia shall take precedence over domestic normative acts unless it comes into conflict with the Constitution or the Constitutional Agreement of Georgia”.

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<sup>21</sup> Parliamentary Assembly of the Council of Europe, [Doc. 16420](#), Report on “The functioning of democratic institutions in Georgia”, 3 June 2026, para. 16.

<sup>22</sup> See Venice Commission, [CDL-AD\(2026\)026](#), Opinion on the amendments of 4 March 2026 to the Law on Grants, the Organic Law on Political Associations of Citizens, the Criminal Code and related legislation.

16. Georgia is State Party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR). The two instruments both grant the right to freedom of expression (Article 19 of the ICCPR, Article 10 of the ECHR), the right to freedom of association (Article 22 of the ICCPR, Article 11 of the ECHR), the right to take part in the conduct of public affairs, including the right to vote and to be elected (Article 25 of the ICCPR, Article 3 of Protocol No. 1 to the ECHR), the right to a fair hearing and to an effective remedy before an independent and impartial tribunal (Article 14 of the ICCPR, Articles 6 and 13 of the ECHR), and the prohibition of discrimination (Article 26 of the ICCPR, Article 14 of the ECHR, Protocol 12 to the ECHR).

17. Relevant soft-law standards include the Venice Commission's Code of Good Practice in Electoral Matters,<sup>23</sup> the Joint Guidelines on Political Party Regulation,<sup>24</sup> and the Updated Rule of Law Checklist,<sup>25</sup> which provide benchmarks on legal certainty, proportionality of sanctions, party regulation, rules of elections and the separation of powers.

#### **IV. Analysis**

##### **A. Procedural aspects**

18. The legislative package was adopted under an expedited procedure on 16 October 2025, in three readings within just three days.<sup>26</sup> The legislative package had been initiated on 8 October 2025 by members of the Georgian Dream parliamentary faction who requested that it be considered under the accelerated legislative procedure. On 13 October 2025, the Parliamentary Bureau referred the draft to the relevant committees and decided that it would be examined under the accelerated procedure. The Legal Issues Committee was designated as the lead committee. Parliament adopted the package in first reading on 15 October 2025, and in second and third readings on 16 October 2025. The legislative package was not subject to a formal public consultation process or extensive stakeholder engagement prior to its adoption.

19. The Venice Commission notes that according to the Rules of Procedure of the Parliament of Georgia, Parliament may examine and pass a bill under an accelerated procedure if – as in the present case – it merely involves the introduction of legislative amendments.<sup>27</sup> However, the Venice Commission is concerned that this fast-track procedure, without any formal public consultation process or extensive stakeholder engagement, was used for the adoption of such a human-rights sensitive legislative package, which has direct implications on electoral rights and political pluralism, and that no justification was provided for the urgency of this reform.

20. The Venice Commission has consistently expressed the view that any successful changes to election-related legislation should be built on at least the following three essential elements: 1) clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations; 2) the adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and 3) the political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means by which to timely evaluate any alleged failure to do so. An open and transparent process of consultation and preparation of such amendments increases confidence and trust in the adopted legislation and in the state institutions in general. These principles have already been brought to the attention of the Georgian authorities in previous

<sup>23</sup> Venice Commission, [CDL-AD\(2002\)023rev2-cor](#), Code of good practice in electoral matters.

<sup>24</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition.

<sup>25</sup> Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist.

<sup>26</sup> See e.g. Transparency International Georgia, [The Ban on Political Parties and Their Members Will Ultimately Undermine Democracy in Georgia](#) - [საერთაშორისო გამჭვირვალობა - საქართველო](#)

<sup>27</sup> See Article 117 of the [Rules of Procedure of the Parliament of Georgia](#).

Opinions;<sup>28</sup> the Venice Commission regrets that as in the preceding reform processes, they were not sufficiently taken into account in the present case.

21. The swift procedure that has been followed is not in line with the Venice Commission's Updated Rule of Law Checklist,<sup>29</sup> nor did it ensure the broadest possible consensus after extensive public consultations with all relevant stakeholders, as the Commission had recommended in its aforementioned previous Opinions on Georgia. The Commission wishes to reiterate that the legal framework for elections and political competitors should be based on as wide a consensus as possible amongst all the parties participating in an election and that every effort should be made to achieve this shared confidence in the process.<sup>30</sup>

## **B. Substantive aspects**

22. The amendments of 16 October 2025 establish two distinct, albeit closely interconnected categories of restrictive measures. In the first place, they introduce a set of restrictions directed at natural persons associated with a prohibited political party, affecting their ability to engage in political activity; in the second place, they complement the recently introduced measures directed at political parties as legal entities – including their prohibition, deregistration, and exclusion from political and electoral processes – by criminal liability of political parties in relation to the above-mentioned restrictions on natural persons. The two categories of measures interfere with the exercise of political rights and must therefore be assessed against international human rights standards.

### **1. Restrictions Imposed on Individuals**

#### **a. Overview of the amendments**

23. The amended Law on the Constitutional Court of Georgia states that, if the Court upholds a constitutional complaint concerning a political party, the annulment of the party's registration may, at the request of the claimant and subject to the Court's approval, be accompanied by prohibitions imposed on individuals "associated" with the banned party. More precisely, the amended Article 23(3) of the Law states:

*"Granting a constitutional claim lodged on the issue provided for in subparagraph (c) of paragraph 1 of Article 19 of this Law shall result in the prohibition of the relevant political party and the occurrence of the following ancillary consequences:*

- a) revocation of the registration of the relevant political party;*
- b) a ban on the relevant associated person of the political party from establishing a political party, being a member of a political party, being a member of a political party body, holding a party position within a political party, exercising passive electoral rights in general elections, acquiring the powers of a member of an elected body or an elected official in general elections, holding a State-political position, holding a political position, and holding the position of the head of a constitutional body of Georgia, provided that the claimant requested such a ban and the request was granted;*
- c) the emergence of grounds for termination of the mandate of a Member of the Parliament of Georgia elected upon nomination by the relevant political party, provided*

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<sup>28</sup> See, most recently, [CDL-AD\(2025\)016](#), Venice Commission, Opinion on the amendments to the Organic Law "Election Code of Georgia", pertaining to local elections, paras 12ff.; Venice Commission, [CDL-AD\(2024\)023](#), Opinion on amendments to the Election Code which abolish gender quotas, paras 15ff.; Venice Commission, [CDL-AD\(2024\)010](#), Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, paras 8ff.

<sup>29</sup> Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist.

<sup>30</sup> Venice Commission, [CDL-AD\(2024\)010](#), Follow-up Opinion to the Joint Opinion on the draft amendments to the Election Code and to the Rules of Procedure of the Parliament of Georgia, para. 10.

*that the claimant requested that such Member of Parliament be subject to termination of mandate and the request was granted;*  
*d) termination of the mandate of a member of another representative body elected upon nomination by the relevant political party, provided that the claimant requested this and the request was granted;*  
*e) removal of a person from the party list submitted by the relevant political party in general elections, provided that the claimant requested this and the request was granted.”*

24. Article 19(1) of the Law on the Constitutional Court of Georgia, to which the amended Article 23(3) refers, states:

*“The Constitutional Court shall be authorised, on the basis of constitutional claim or constitutional submission, to consider and make decisions on:  
[...] c) the issue of the constitutionality of formation of a political party and its activity, and the termination of powers of a member of a representative body elected upon recommendation of this political party; [...]”*

25. The amendments to the Law on the Constitutional Court of Georgia also provide for procedural regulations. *Inter alia*, the Constitutional Court is required to expressly identify the individuals subject to the aforementioned prohibitions in its decision (Article 43(1)(e)), and affected persons are granted the right to submit their views during the proceedings (Article 35(4)).

26. The above-mentioned “ancillary consequences” of a party ban are also reflected in the amendments to the Law on Political Associations of Citizens and to the Election Code. Pursuant to the newly introduced Article 21<sup>1</sup> of the Law on Political Associations of Citizens,

*“it shall be inadmissible to establish a party by a person in relation to whom a court has made a decision provided for by Article 23(3)(b) of the Organic Law of Georgia on the Constitutional Court of Georgia. It shall also be inadmissible for that person to be a member of the party or a member of the body of a party and/or hold a position in a party.”*

In addition, the amended law prohibits such persons from making donations to political parties (Article 26).

27. Moreover, under the amended provisions of the Election Code,<sup>31</sup> the relevant individuals may not be included in party lists (Articles 130(4)(d) and 150(4)), must be removed from existing party lists (Articles 132, 155, and 167), and are barred from standing as candidates in parliamentary, municipal, or mayoral elections (Articles 152(6)(d) and 172(12)(e)), where a relevant Constitutional Court decision has been issued.

#### b. Fundamental rights concerned

28. International standards enshrine political rights of participation, namely in Article 3 of Protocol No. 1 to the ECHR,<sup>32</sup> Article 25.b of the International Covenant on Civil and Political

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<sup>31</sup> It should be noted that the above Reference Document contains the new Election Code adopted by the Georgian Parliament on 17 December 2025. The amendments to the old Election Code which were adopted on 16 October 2025, and which are the subject of this Opinion, have been incorporated into the new Code, but the article numbers have changed.

<sup>32</sup> Right to free elections: “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

Rights<sup>33</sup> (complemented by Article 2(1) on the prohibition of discrimination), Article 21 of the Universal Declaration of Human Rights<sup>34</sup> and the 1990 OSCE Copenhagen Document.<sup>35</sup> In the specific case of the ECHR, the ECtHR has held that the right to free elections relates to the right to vote, and the passive aspect, namely the right to stand as a candidate for election.<sup>36</sup> Article 25 ICCPR is of particular relevance for eligibility to be elected in local (and presidential) elections, which are in principle not covered by Article 3 of Protocol No. 1 to the ECHR.<sup>37</sup> Article 25 ICCPR and Article 3 of Protocol No. 1 to the ECHR enshrine the principle of equal treatment of all citizens in the exercise of their electoral rights.<sup>38</sup> In the practice of the ECtHR, restrictions of local electoral rights have been examined under the anti-discrimination clause of Article 1 of Protocol No. 12, which includes a general prohibition of discrimination, not limited merely to Convention rights.<sup>39</sup> This article forbids discrimination in the enjoyment of any right set forth by law on any ground, including political or other opinion. In its General Comment on Article 25 of the ICCPR, the UN Human Rights Committee (UN HRC) emphasises that any restrictions on the right to stand for election must be justifiable on objective and reasonable criteria and that persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.<sup>40</sup> The General Comment further underlines that political opinion may not be used as grounds to deprive any person of the right to stand for election.<sup>41</sup>

29. As the Venice Commission has outlined on previous occasions,<sup>42</sup> the ban of political parties as collective entities, although not so frequent in democracies, is a relatively well-known topic and almost all democratic systems recognise and regulate some form of ban of

<sup>33</sup> Article 21: "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

[...].

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."

<sup>34</sup> "1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

<sup>35</sup> CSCE/OSCE, [Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE](#), 29 June 1990, paras 6-7 and 24, whereby OSCE participating States committed "[t]o ensure that the will of the people serves as the basis of the authority of government, the participating States will (...) respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination" (para. 7.5) and that any restriction on rights and freedoms must "be strictly proportionate to the aim of th[e] law" (para. 24).

<sup>36</sup> ECtHR, *Tănase v. Moldova* [GC], 27 April 2010, Application no. 7/08, para. 155.

<sup>37</sup> Article 3 of Protocol No. 1 to the ECHR applies to electoral rights concerning national parliaments and other "legislatures". However, according to the ECtHR, "legislature" does not necessarily mean the national parliament alone but municipal councils, district councils and regional assemblies may be covered by Article 3 of Protocol No. 1 if they exercise "inherent primary rulemaking powers and form part of the legislature". Yet, "the power to make regulations and by-laws, which is conferred on the local authorities in many countries, is to be distinguished from legislative power", including at the regional level. See [Guide on Article 3 of Protocol No. 1](#) to the European Convention on Human Rights, Right to free elections.

<sup>38</sup> ECtHR, *Partija "Jaunie Demokrāti" and Partija "Mūsu Zeme" v. Latvia* (dec.), 29 November 2007, Application nos. 10547/07 and 34049/07.

<sup>39</sup> ECtHR, *Selygenenko and others v. Ukraine*, 21 October 2021, Application nos. 24919/16 and 28658/16.

<sup>40</sup> United Nations. Human Rights Committee. CCPR/C/21/Rev.1/Add.7. 27 August 1996. General Comment 25, para. 17. Cf. Venice Commission, [CDL-AD\(2018\)010](#), Report on Term Limits - Part I – Presidents, para. 66.

<sup>41</sup> United Nations. Human Rights Committee. CCPR/C/21/Rev.1/Add.7. 27 August 1996. General Comment 25, para. 17.

<sup>42</sup> See, *inter alia*, Venice Commission and ODIHR, [CDL-AD\(2023\)025](#), Ukraine - Joint opinion on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, para. 16; Venice Commission and ODIHR, [CDL-AD\(2023\)031](#), Republic of Moldova: Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, para. 26.

political parties that are perceived as a threat to the democratic system.<sup>43</sup> The Venice Commission has also been repeatedly called in the past to assess legislation providing ineligibility to be elected in the case of electoral and criminal offenders. The Commission expressed the view that the withdrawal of the right to serve as a representative due to criminal conviction for serious offences should be considered as a means of preserving democracy and the voters' trust in it.<sup>44</sup> The case under consideration is, however, different. The individuals affected by the amendments have not been convicted of any criminal offence but have merely been "associated" with a prohibited political party; moreover, they are subject to a broader range of measures interfering with electoral and political rights.

30. Several of the above-mentioned "ancillary consequences" which were introduced by the amendments of 16 October 2025 restrict the right to free elections enshrined in Article 3 of Protocol No. 1 to the ECHR and Article 25 of the ICCPR, more precisely the passive aspect of universal suffrage (the right to be elected):<sup>45</sup> namely the consequence of ineligibility in general elections; the ban on acquiring the powers of a member of an elected body or an elected official through general elections; and also the termination of the mandate as an MP or as a member of another representative body. As the Venice Commission has previously stressed,<sup>46</sup> depriving MPs of their parliamentary mandates amounts to an interference with their electoral rights guaranteed in Article 3 of Protocol 1 to the ECHR.<sup>47</sup> Such Article guarantees not only the individual's right to stand for election but also, once elected, the individual's right to sit as a member of Parliament.<sup>48</sup> The rationale behind this rule is that the substantive right to free elections protected by Article 3 of Protocol No. 1 to the ECHR would be an empty shell if the legal protection of that right did not extend to the elected representatives in carrying out their duties on behalf of the voters.<sup>49</sup> Moreover, depriving lawfully elected representatives of their mandate to serve in Parliament due to their political affiliation also amounts to an interference with the people's choice of legislature.<sup>50</sup>

31. Several other "ancillary consequences" introduced by the amendments of 16 October 2025 restrict the right to freedom of association – which is protected by Article 11 of the ECHR and Article 22 of the ICCPR –, namely the prohibition to establish a political party, to be a member of a political party or a member of a political party body, and to "hold a party position within a political party". As the Venice Commission has recalled in the Joint Guidelines on Political

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<sup>43</sup> This issue has been addressed by the Venice Commission and OSCE/ODIHR in [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, paras 106ff.; Venice Commission, [CDL-INF\(2000\)001](#), Guidelines on prohibition and dissolution of political parties and analogous measures. The Venice Commission has also provided a comparative report on the subject. Venice Commission, [CDL-AD\(2015\)036cor](#), Report on exclusion of offenders from Parliament.

<sup>44</sup> Venice Commission, [CDL-AD\(2017\)025](#), Amicus curiae brief for the European Court of Human Rights in the case of Berlusconi v. Italy on the minimum procedural guarantees which a state must provide in the framework of a procedure of disqualification from holding an elective office, para. 11.

<sup>45</sup> See Venice Commission, Code of Good Practice in Electoral Matters, [CDL-AD\(2002\)023rev2-cor](#), I.1.

<sup>46</sup> See Venice Commission, [CDL-AD\(2023\)026](#) – Ukraine – Opinion on the draft law on amendments to Article 51 of the Rules of Procedure of the Verkhovna Rada on political liability of Members of Parliament associated with political parties whose activities have been suspended, para. 19.

<sup>47</sup> Article 3 of Protocol 1 to the ECHR on the "Right to free elections" states: "The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

<sup>48</sup> The Venice Commission has indeed noted that in international human rights law, exercising the mandate as a lawfully elected representative of parliament is a corollary of the right to stand for election. See Venice Commission, [CDL-AD\(2019\)029](#), Amicus curiae brief for the Constitutional Court of Ukraine on Draft Law 1027 on the early termination of a Deputy's mandate, para. 11.

<sup>49</sup> ECtHR, [Sadak and Others v. Turkey \(no. 2\)](#), Application nos. 25144/94 and 3 others, 11 June 2002, para. 33, and EComHR, [M. v. the United Kingdom](#), Application no. 10316/83, 7 March 1984. See also Venice Commission, Venice Commission, [CDL-AD\(2015\)036cor](#), Report on exclusion of offenders from Parliament, paras 28-29.

<sup>50</sup> See Venice Commission, [CDL-AD\(2019\)029](#), Amicus curiae brief for the Constitutional Court of Ukraine on Draft Law 1027 on the early termination of a Deputy's mandate, para. 26.

Party Regulation,<sup>51</sup> “the right to free association has been expressly extended to political parties by the ECtHR.<sup>52</sup> Article 11 of the ECHR and Article 22 of the ICCPR protect the right to associate in political parties as part of the general freedom of assembly and association, which requires that everyone has the right to freedom of association with others without restrictions other than those that are prescribed by law and are necessary in a democratic society.” At the same time, the above-mentioned restrictions of political rights interfere with the right to freedom of expression and opinion, protected by Article 10 of the ECHR and Article 19 of the ICCPR.<sup>53</sup> This also applies to the prohibition on “associated persons” to make a donation to a political party.<sup>54</sup>

32. Lastly, as concerns the “ancillary consequences” of the ban on holding a State-political office, holding a political office and holding the position of head of a body provided for by the Constitution of Georgia, Article 25c) of the ICCPR is relevant, as it guarantees every citizen’s right “to have access, on general terms of equality, to public service in his country.”

c. Legality, legitimacy and proportionality

33. The rights to freedom of association, as well as to freedom of opinion and expression, are not absolute: they may be subject to restrictions but only in accordance with the three-part test of legality, legitimacy, and necessity in a democratic society, including proportionality. In particular, under Article 11(2) of the ECHR restrictions of the exercise of the right to freedom of association must be “necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.” Under Article 10(2) of the ECHR, the exercise of the right to freedom of expression “may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”<sup>55</sup>

34. Regarding the rights guaranteed by Article 3 of Protocol No. 1 to the ECHR, they are not absolute either, and there is room for “implied limitations”,<sup>56</sup> but the margin of appreciation of which States dispose in this sphere is not all-embracing. To comply with the requirements of Article 3 of Protocol No. 1 to the ECHR, the restrictions imposed should not curtail the right in question to such an extent as to impair its very essence and deprive it of its effectiveness; they should meet the requirements of lawfulness, they should pursue a legitimate aim; and the means employed should not be disproportionate. In particular, such restrictions must not “thwart the free expression of the opinion of the people in the choice of the legislature”.<sup>57</sup> Regarding the requirement of the pursuit of a legitimate aim, it must be noted that Article 3 of

<sup>51</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, para. 78.

<sup>52</sup> See ECtHR, [United Communist Party of Turkey and Others v. Turkey \[GC\]](#), Application no. 19392/92, 30 January 1998.

<sup>53</sup> Cf. Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, para. 79.

<sup>54</sup> The ECtHR has recognised that restrictions on the financing of political parties may interfere with the Convention rights protected by Articles 10 and 11. See e.g. ECtHR, *Parti Nationaliste Basque – Organisation Régionale d’Iparralde v. France*, Application no. 71251/01, 7 June 2007.

<sup>55</sup> Similar limitation clauses are included in Articles 19 and 22 of the ICCPR.

<sup>56</sup> Cf. ECtHR, *Selahattin Demirtaş v. Turkey (no. 2) [GC]*, 22 December 2020, para. 388: “The concept of ‘implied limitations’ means that the traditional tests of ‘necessity’ or ‘pressing social need’ which the Court uses in the context of its analyses under Articles 8 to 11 of the Convention are not applied in cases concerning Article 3 of Protocol No. 1. Rather, the Court first sets out to ascertain whether there has been arbitrary treatment or a lack of proportionality. Next, it examines whether the limitation has interfered with the free expression of the opinion of the people [...]”

<sup>57</sup> ECtHR, [Paksas v. Lithuania \[GC\]](#), Application no. 34932/04, 6 January 2011, paras 96-97.

Protocol No. 1 to the ECHR does not contain a list of “legitimate aims” capable of justifying restrictions on the exercise of the rights it guarantees. To be legitimate, the aim pursued by the restriction must be compatible with the principle of the Rule of Law and the general objectives of the Convention.<sup>58</sup>

35. Firstly, as concerns the legality of the interference, the ECtHR has held that laws interfering with Convention rights must be accessible and foreseeable, particularly where they confer a wide margin of discretion on public authorities.<sup>59</sup> The UN HRC has likewise stressed that restrictions on rights protected by Articles 19, 22, and 25 of the ICCPR must be clearly defined and must not confer unfettered discretion on the authorities.<sup>60</sup> The Venice Commission has also emphasised that restrictions on political rights in particular must be formulated in a manner that is sufficiently precise and foreseeable, enabling individuals to regulate their conduct accordingly.<sup>61</sup>

36. In this respect, the Venice Commission notes that in the present case the concept of individuals “associated” with a banned political party is unclear and undefined. The legislation neither provides clear criteria for determining the nature, degree, or temporal scope of such association, nor does it distinguish between different forms of involvement, levels of responsibility, or types of conduct. In this context, it has been reported that the Chairman of the Parliament's Legal Issues Committee Archil Gorduladze informed Parliament on 15 October 2025 that “associated persons” would be “members, representatives of the ruling circle, or they could just as well not be party representatives, not have party tickets in their pockets, but through their activities be fully aligned with the party’s goals or ensure that the party’s politics are put into practice.”<sup>62</sup> In the opinion of the Venice Commission, the absence of precise and foreseeable criteria raises serious concerns as to compliance with the principle of legal certainty and risks enabling overly broad or arbitrary application of the restrictions.

37. In addition, the scope of the prohibition to “establish a political party” is unclear: does this mean that the presence of a single person (“associated” with a former banned party) can lead to the refusal to register a new party or to the banning of a newly established party? Furthermore, the exact meaning of the prohibition to be a member of a “political party body” and to “hold a party position within a political party” should be clarified in the law.

38. Secondly, regarding the requirement of the pursuit of a legitimate aim, the Explanatory notes to the amendments state that “the grounds for restricting the passive electoral right protected by Article 24 of the Constitution of Georgia are provided for in the Constitution itself. The Constitution of Georgia excludes certain violent actors from political processes and the system of governance. Specifically, in accordance with Article 23, paragraph 3 of the Constitution of Georgia, the creation and activity of any public or political association is prohibited if its purpose is to overthrow or violently change the constitutional order of Georgia, to undermine the country's independence, to violate its territorial integrity, to engage in propaganda of war or violence, or to incite national, regional, religious or social hatred. Accordingly, as interpreted by the Constitutional Court of Georgia, a person or a political

<sup>58</sup> Among many others, ECtHR, [Ždanoka v. Latvia \[GC\]](#), Application no. 58278/00, 16 March 2006, para. 115.

<sup>59</sup> ECtHR, *Sunday Times v. the United Kingdom (No. 1)*, Application no. 6538/74, judgment, 26 April 1979, paras 49–50; *The United Communist Party of Turkey and Others v. Turkey*, Application no. 19392/92, Judgment, 30 January 1998, paras 46–47; *Refah Partisi (the Welfare Party) and Others v. Turkey*, Applications nos. 41340/98 et al., Judgment (GC), 13 February 2003, paras 99–100.

<sup>60</sup> UN HRC, *General Comment No. 34 on Article 19 ICCPR* (CCPR/C/GC/34), paras 25 and 33; *General Comment No. 25 on Article 25 ICCPR* (CCPR/C/21/Rev.1/Add.7), paras 4, 15 and 21; *Kivenmaa v. Finland*, Communication No. 412/1990, para. 9.2.

<sup>61</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, para. 48.

<sup>62</sup> See *GD Parliament Adopts Law Extending Party Ban to Individuals*, online at <https://civil.ge/archives/706643>. According to Mr Kobakhidze, the criterion was that “whoever has been continuously involved in sabotage against the State together with this bloody party [i.e. UNM] or force will, of course, also be affected by this appeal.”

organisation may be prohibited from exercising the passive electoral right, if their purpose is to overthrow the constitutional order or to carry out any illegal acts referred to in paragraph 3 of Article 23 of the Constitution of Georgia.”<sup>63</sup> The Venice Commission considers that the aims cited in the Explanatory notes – to exclude certain violent actors from political processes and the system of governance, who aim to overthrow or violently change the constitutional order of Georgia, to undermine the country's independence, to violate its territorial integrity, to engage in propaganda of war or violence, or to incite national, regional, religious or social hatred – could be considered, in principle, legitimate aims under Article 11 and Article 10 of the ECHR (the interests of national security, territorial integrity and public safety, and for the prevention of disorder or crime). The different question of whether or not the amendments indeed pursue the stated aim to restrict electoral rights only of “certain violent actors” whose purpose is “to overthrow the constitutional order or to carry out any illegal acts referred to in paragraph 3 of Article 23 of the Constitution of Georgia” will be examined further below.

39. Thirdly, turning to the assessment of the proportionality of the interference, the Venice Commission recalls that – as mentioned above – the possibility to ban political parties that are perceived as a threat to the democratic system is common in the Constitutions of its member States, but may be justified only under very limited circumstances. Similarly, when the Constitution so provides, the Venice Commission has recognised that a restriction on the eligibility for election of such party members may be permissible in specific historical situations where democracy had to defend itself. These restrictions must comply with strict proportionality requirements, including notably an individual assessment of the conduct of the party member and due procedural safeguards in the assessment process,<sup>64</sup> and a strict proportionality between the conduct and the nature and severity of the sanction, in line with the case-law of the ECtHR.<sup>65</sup> It should be highlighted that in these cases, the Commission found that such restrictions could be justified (although the specific restrictions were nevertheless deemed too broad to be proportionate).

40. By contrast, in the present case of Georgia, there is no evidence to suggest that the 16 October 2025 amendments met such a necessity. Moreover, the Venice Commission notes that the amendments impose particularly harsh measures on persons “associated” with a prohibited political party, including potentially persons who are not or no longer member of that party. Those measures lead to several restrictions of electoral rights, such as ineligibility and termination of the mandate as elected representative; in addition, they include a range of further restrictions on political participation, such as the prohibition to establish a political party, to be member of a party or hold a party position, holding a State-political position, etc. The combined effect of exclusion from political life, electoral participation, public office, and representative mandates constitutes a particularly severe interference with fundamental political rights – which is even more worrying given the motion filed by MPs of the governing party to ban five opposition parties, which might have severe consequences for a very large number of persons. The Explanatory notes do not provide an explanation of the actual need for such measures.

41. Furthermore, most of these measures (except for termination of the mandate and removal from a party list in general elections) are grouped together in sub-paragraph b) of the amended Article 23(3) of the Law on the Constitutional Court of Georgia; there appears to be no possibility of restricting merely some of the listed rights, rather than the entirety of the rights

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<sup>63</sup> See the decision of the Constitutional Court of Georgia in the case: “*Citizen of Georgia Kakha Kukava v. the Parliament of Georgia*”, II-37; <https://constcourt.ge/ka/judicial-acts?legal=571>

<sup>64</sup> See, *inter alia*, Venice Commission and ODIHR, [CDL-AD\(2023\)025](#), Ukraine - Joint opinion on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, paras 56f.; Venice Commission and ODIHR, [CDL-AD\(2023\)031](#), Republic of Moldova: Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, paras 59f.

<sup>65</sup> See ECtHR, [Sadak and Others v. Turkey \(no. 2\)](#), Application nos. 25144/94 and 3 others, 11 June 2002, para. 39.

mentioned in that sub-paragraph. Furthermore, the amendments neither provide for time limits nor specify whether and under what conditions the restrictions may be reviewed. These restrictions, therefore, are apparently of an indefinite duration, amounting to a lifetime ban on political activity for individuals “associated” with prohibited political parties. In this connection, the Venice Commission recalls that in assessing the proportionality of a general measure restricting the exercise of the rights guaranteed by Article 3 of Protocol No. 1 to the ECHR, the ECtHR found that decisive weight should be attached to the existence of a time-limit and the possibility of reviewing the necessity of the measure in question.<sup>66</sup> In the opinion of the Venice Commission, in the present case the combination of the permanency and the far-reaching nature of the restrictions is a matter of serious concern.

42. Concerning the procedure before the Constitutional Court, under the amended Article 23(3) of the Law on the Constitutional Court of Georgia, granting a constitutional claim resulting in the prohibition of the relevant political party shall result in the occurrence of the ancillary consequences, “provided that the claimant requested” such consequences “and the request was granted”. It therefore seems that, at least in principle, those consequences stem from an individualised decision. However, the amendments do not provide any criteria that could guide the decision of the Constitutional Court. Such a lack of criteria would result in the deprivation of the electoral, parliamentary and other political rights of all persons “associated” with a banned political party, regardless of their personal political activities and of their active involvement in the illegitimate activities of the prohibited party. The October 2025 amendments thus link the legal consequences for individuals directly to the prohibition of a political party, without clearly requiring an individualised assessment of personal conduct, intent, or responsibility. Such an approach may amount to collective or guilt-by-association measures, which are difficult to reconcile with constitutional and international standards requiring individualisation of liability, particularly where fundamental political rights are at stake. In light of the above, the Venice Commission finds that, while *prima facie* accompanied by some sort of individualised decision-making, the measures under consideration are of a general nature.

43. According to the consistent case-law and standards of the Venice Commission, the ECtHR and the UN HRC, restrictions on political rights must be based on an individualised assessment of the conduct and responsibility of the person concerned and may not be imposed automatically or solely on the basis of affiliation or presumed association.

44. More precisely, the Venice Commission has underlined that under international standards the prohibition of a political party and related sanctions, including certain sanctions against its party members, may be justified under limited circumstances, subject to strict legitimate aims and proportionality requirements, but “a clear distinction has to be drawn between the political parties that have been prohibited and dissolved and the rights of individuals who militate or have militated within that political party. The prohibition of the party should not directly affect the rights of all these individuals.”<sup>67</sup>

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<sup>66</sup> The need for such a possibility is linked to the fact that the assessment of the issue must have regard to the historical and political context in the State concerned; since this context is capable of evolving, not least in terms of the perceptions which voters may have of the circumstances that led to the introduction of such a general restriction, the initial justification for the restriction may subside with the passing of time. See ECtHR, [Advisory opinion on the assessment, under Article 3 of Protocol No. 1 to the Convention, of the proportionality of a general prohibition on standing for election after removal from office in impeachment proceedings](#), Request no. P16-2020-002, 8 April 2022, para. 90, with further references.

<sup>67</sup> Venice Commission and ODIHR, [CDL-AD\(2023\)025](#), Ukraine - Joint opinion on the draft law amending certain legislative acts of Ukraine which restrict the participation in the state power of persons associated with political parties whose activities are prohibited by law, para. 40; Venice Commission and ODIHR, [CDL-AD\(2023\)031](#), Republic of Moldova - Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, para. 44; Venice Commission and ODIHR, [CDL-AD\(2023\)048](#), Republic of Moldova - Joint Follow-up Opinion to the Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, para. 36; Venice Commission and ODIHR, [CDL-AD\(2023\)049](#), Republic of Moldova - Joint *amicus*

45. The ECtHR has held that blanket or automatic exclusions from political or public life, imposed without an examination of personal behaviour, intent or degree of involvement, are incompatible with the requirements of the Convention, in particular where they affect the essence of electoral rights and freedom of association.<sup>68</sup> The UN HRC has likewise emphasised that restrictions on political rights must be based on objective and reasonable criteria directly linked to an individual's own actions, and has warned against measures that impose sanctions on the basis of group membership or political affiliation.<sup>69</sup>

46. As far as the termination of the mandate of an MP is concerned, the Venice Commission also recalls its previous statements according to which the mandate of the representative remains personal and should not be linked inexorably to the existence of a party, whether in Parliament or outside it.<sup>70</sup> Indeed MPs are supposed to represent the people and not their parties.<sup>71</sup> This is a cornerstone of pluralist democracies: a parliamentarian represents the people and of the nation as a whole and not just a part, or a specific group of people or a territorial part of the country.<sup>72</sup> In this context, attention is also drawn to Article 39 of the Georgian Constitution which states that “a Member of the Parliament of Georgia is a representative of all Georgia. He/she shall enjoy a free mandate and shall not be recalled.”

47. Moreover, the Venice Commission notes that the ECtHR has stressed the need to afford sufficient procedural safeguards against arbitrariness in the framework of the process of the domestic authorities deciding on electoral rights.<sup>73</sup> This includes the right to be heard, the right to present evidence, the right to be represented by a lawyer, the right to defence, the right to a sufficiently reasoned decision, and the possibility to contest the decision to an independent judicial body. Since in the present case the ineligibility to be elected, as well as other restrictions of electoral and political rights, are decided by the Constitutional Court, it is not possible to legally challenge such restrictions,<sup>74</sup> contrary to the principle of access to justice, one of the pillars of the Rule of Law.<sup>75</sup>

48. Finally, the Venice Commission expresses concern that the possibility to terminate mandates or remove candidates from electoral lists at the request of a plaintiff in constitutional proceedings, combined with accelerated constitutional adjudication timelines, could have a direct and immediate impact on electoral competition and voters' choice. In the absence of sufficient procedural safeguards to prevent arbitrary or disproportionate interference with electoral competition, there is a risk that such measures may alter the electoral landscape during an ongoing or imminent electoral process.

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*curiae* brief of the Venice Commission and ODIHR on the ineligibility of persons connected to political parties declared unconstitutional, para. 29.

<sup>68</sup> ECtHR, *Ždanoka v. Latvia*, Application no. 58278/00, Judgment (GC), 16 March 2006, paras 115–122; *Sidabras and Džiautas v. Lithuania*, Applications nos. 55480/00 and 59330/00, Judgment, 27 July 2004, paras 56–60; *Danilenkov and Others v. Russia*, Application no. 67336/01, Judgment, 30 July 2009, paras 84–87.

<sup>69</sup> UN HRC, *General Comment No. 25 on Article 25 ICCPR* (CCPR/C/21/Rev.1/Add.7), paras 4 and 15.

<sup>70</sup> See Venice Commission, [CDL-AD\(2023\)026](#) – Ukraine – Opinion on the draft law on amendments to Article 51 of the Rules of Procedure of the Verkhovna Rada on political liability of Members of Parliament associated with political parties whose activities have been suspended, para. 34.

<sup>71</sup> Venice Commission, [CDL-INF\(2001\)11](#), Consolidated Opinion on the Ukraine Constitutional reform project, p. 2.

<sup>72</sup> *Ibidem*.

<sup>73</sup> See ECtHR, *Political Party “Patria” and others v. Republic of Moldova*, 4 August 2020, Application nos. [5113/15](#) and 14 others; *Miniscalco v. Italy*, 17 September 2021, Application no. [55093/13](#); *Galan v. Italy* (dec.), 17 June 2021. See also ECtHR, *Podkolzina v. Latvia*, 9 April 2002, Application no. [46726/99](#), in which the court stated that the principle of effective guarantee of rights requires that the procedure for assessing a candidate's eligibility should provide sufficient safeguards to prevent arbitrary decisions.

<sup>74</sup> See Article 60(5) of the Georgian Constitution: “A judgment of the Constitutional Court shall be final.”

<sup>75</sup> Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist, II.F. This principle is protected by the procedural aspect of Article 3 of Protocol No. 1 to the ECHR.

49. In conclusion, while certain restrictions on electoral and political rights may be justified if they are necessary to defend democracy, there is no evidence to suggest that the 16 October 2025 amendments met such a necessity. Furthermore, the Venice Commission is of the view that the legal basis for the imposition of such severe restrictions of electoral and political rights is too wide to be proportionate to the aims cited in the Explanatory notes.<sup>76</sup> In line with its previous Opinions, the Venice Commission stresses that restrictions of electoral and political rights, in order to ensure a proper balance between the legitimate defence of democracy and the protection of individual political rights, must be limited to those persons who had an active participation in the actions that led to the declaration of unconstitutionality of the party and must be assessed on an individual basis with adequate procedural safeguards, including the possibility to challenge the decision.<sup>77</sup> The Venice Commission finds that the very far-reaching, cumulative, permanent measures introduced by the amendments, which lack legal precision, clear criteria for the decision-making by the Constitutional Court as well as sufficient procedural guarantees and judicial remedy for the persons concerned, are contrary to the principles of legality, proportionality and prohibition of arbitrariness guaranteed by Article 3 of Protocol 1 to the ECHR, Articles 10 and 11 of the ECHR and other international treaties and standards in the field of elections and political parties, freedom of association and freedom of expression and opinion.<sup>78</sup>

## 2. Fines Imposed on Political Parties

50. Under the 16 October 2025 amendments, the restrictions on individuals “associated” with a banned political party, examined above, have been reinforced by the simultaneous amendments to the Criminal Code. Specifically, the new Note 2 to Article 381 of the Criminal Code<sup>79</sup> provides that *“a fine shall be imposed on a political party that will fail to comply with the decision of the Constitutional Court of Georgia provided for by Article 23(3)(b) of the Organic Law of Georgia on the Constitutional Court of Georgia, or will hinder its compliance”*, thus referring to a decision on legal consequences for an “associated” person.

51. The Venice Commission notes that Note 2 to Article 381 interferes with the freedom of association. As it has previously underlined, “according to Article 11 ECHR and Article 22 ICCPR, any limitation imposed on the rights of political parties must be necessary in a democratic society, proportionate in nature and time, and effective in achieving its specified purpose. The need for restrictions shall be carefully weighed. The limitation chosen shall be proportionate and the least intrusive means to achieve the respective objective. Particularly in

<sup>76</sup> See also ECtHR, *Kiliçgedik and others v. Turkey*, 14 December 2010, Application nos. 4517/04, 4527/04, 4985/04, 4999/04, 5115/04, 5333/04, 5340/04, 5343/04, 6434/04, 10467/04 and 43956/04), para. 48.

<sup>77</sup> See e.g. Venice Commission and ODIHR, [CDL-AD\(2023\)031](#), Republic of Moldova - Joint Opinion on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, para. 53.

<sup>78</sup> In its [General Comment no. 25](#), the UN HRC has found that the grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures, see para. 16.

<sup>79</sup> Article 381 of the Criminal Code on “Failure to execute or interference with the execution of a judgment or other court decisions” reads:

“1. Failure to execute or interference with the execution of a final judgment or other court decision, – shall be punished by a fine or community service from one hundred and eighty to two hundred and forty hours or by imprisonment for up to two years.

2. The same act committed by a representative of authority or a government servant, – shall be punished by a fine or community service from two hundred and forty to three hundred and sixty hours or by imprisonment for a term of two to four years, with deprivation of the right to hold an office or to carry out activities for up to three years.”

**Note:**

1. An offence against the judicial authority provided for by this Section shall also include an offence against the International Criminal Court.

2. A fine shall be imposed on a political party that will fail to comply with the decision of the Constitutional Court of Georgia provided for by Article 23(3)(b) of the Organic Law of Georgia on the Constitutional Court of Georgia, or will hinder its compliance.

the case of political parties, given their fundamental role in the democratic process, prohibitive measures shall be narrowly applied [...].<sup>80</sup>

52. The Commission has previously expressed the view that ensuring the effectiveness and authority of Constitutional Court decisions is a legitimate objective in a constitutional democracy. The Commission has found that measures to enforce these judgments taken in respect of public officials in the form of financial penalties (which under the domestic law did not qualify as “criminal” in nature) could be qualified as “criminal” depending on their amount and could be legitimate if, *inter alia*, they provided for the fair trial guarantees of Article 6 ECHR.<sup>81</sup> The Venice Commission has previously stressed, *inter alia* in the Joint Guidelines on Political Party Regulation, that sanctions against political parties must be proportionate to the specific violation.<sup>82</sup>

53. Moreover, the ECtHR has underlined that any limitation imposed on the right of individuals to freedom of association and on the fundamental rights of associations such as political parties “must be precise, certain and foreseeable, in particular in the case of provisions that grant discretion to state authorities, and must be formulated in terms that provide a reasonable indication as to how these provisions will be interpreted and applied.”<sup>83</sup> Therefore, the Commission has noted that the restrictions must be clear, easy to comprehend, and uniformly applicable to ensure that all individual members and political parties are able to understand them, and anticipate what the consequences will be in case they breach these rules.”<sup>84</sup>

54. The Commission is of the view in the first place that the provision of the possibility to impose financial penalties should be contained in Article 381 itself, rather than in an explanatory note to it. Furthermore, it considers that the provision in Note 2 to Article 381 of the Criminal Code lacks clarity in several respects. First, this provision is related to decisions based on Article 23(3)(b) of the Law on the Constitutional Court of Georgia which, as mentioned above, is itself unclear (e.g. concerning the concept of “associated” persons). Second, it is not clear to what extent under Note 2 to Article 381 of the Criminal Code the party is liable for behaviour of individuals (e.g. for party members who continue to hold a political position or who run for elections), and if this applies not only to behaviour of party members but of any individuals “associated” with a political party. Third, the question arises against which party the fine is directed, given that the Constitutional Court decision is related to a banned party. Fourth, the terms “or will hinder its compliance” (i.e. compliance with a Constitutional Court decision) used in this provision are too vague and fail to describe what kind of actions by the party are punishable. Fifth, the range of the fines available under the new provision is not specified.<sup>85</sup> As the Venice Commission has stressed in the Updated Rule of Law Checklist,<sup>86</sup> “legal certainty is a fundamental principle of law, guaranteeing citizens the foreseeability and stability of legal rules” and foreseeability implies that the law must “be formulated with sufficient precision and clarity to enable legal subjects to regulate their conduct in conformity with it.” Furthermore, the level of the fine may attract the qualification of “criminal” under Article 6 ECHR. The Commission has emphasised that “in particular, a high level of foreseeability is essential in criminal legislation.”<sup>87</sup> Moreover, without the indication of the

<sup>80</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, para. 50.

<sup>81</sup> Cf. Venice Commission, [CDL-AD\(2017\)003](#), Spain - Opinion on the law of 16 October 2015 amending the Organic Law No. 2/1979 on the Constitutional Court, para. 69.

<sup>82</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, paras 272ff.

<sup>83</sup> ECtHR, *Cumhuriyet Halk Partisi v. Turkey*, Application no. 19920/13, 26 April 2016, para. 106.

<sup>84</sup> Venice Commission and OSCE/ODIHR, [CDL-AD\(2020\)032](#), Joint Guidelines on Political Party Regulation, Second Edition, para. 48.

<sup>85</sup> The different provisions of Article 381 of the Criminal Code (paras 1 and 2) provide for different amounts of fines; the new Note 2 merely provides that “a fine shall be imposed on a political party [...]”.

<sup>86</sup> Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist, paras 47ff.

<sup>87</sup> Venice Commission, [CDL-AD\(2025\)002](#), The Updated Rule of Law Checklist, para. 50.

minimum and maximum amount of the fine, it is not possible to assess the proportionality in principle of the fines.

### 3. Constitutional issues

55. Several interlocutors highlighted in online meetings with the Venice Commission that the amendments would run against the Constitution, as they were, firstly, expanding the mandate of the Constitutional Court without a constitutional amendment and, secondly, provided for measures against individuals not foreseen in the Constitution. While it is not for the Venice Commission to assess the constitutionality of the legal amendments, it wishes to draw the attention to these concerns, which warrant proper examination by the authorities.

56. More precisely, the Commission notes, firstly, that the amendments to Article 23(3) of the Law on the Constitutional Court of Georgia give the Court the power to decide on requests for consequences of political party bans for “associated” individual persons. Such powers are neither mentioned in Article 19 of the Law,<sup>88</sup> to which Article 23(3) refers, nor in Article 60(4) of the Constitution. The latter provision enumerates the competences of the Constitutional Court, including, in sub-paragraph f), the competence to “review the constitutionality of activities of a political party, or of the termination of powers of a member of the representative body elected upon nomination by this political party, on the basis of a claim submitted by the President of Georgia, the Government, or by at least one fifth of the Members of Parliament.” The new powers foreseen in Article 23(3) of the Law on the Constitutional Court of Georgia go much farther as they also include decisions on a broad range of prohibitions on individuals “associated” with a banned political party, such as founding, leading, or joining political parties, serving in executive or supervisory party bodies, holding public or political office, or leading constitutional institutions, or exercising passive electoral rights in general elections. Yet Article 60(4) of the Constitution implies that the competence of the Constitutional Court is defined in the Constitution, whereas the organic law only regulates the procedure;<sup>89</sup> see especially the

<sup>88</sup> As already mentioned, Article 19(1) of the Law on the Constitutional Court of Georgia states that the Constitutional Court “shall be authorised, on the basis of constitutional claim or constitutional submission, to consider and make decisions on: “[...] c) the issue of the constitutionality of formation of a political party and its activity, and the termination of powers of a member of a representative body elected upon recommendation of this political party; [...]”

<sup>89</sup> Article 60(4) of the Constitution reads:

“The Constitutional Court of Georgia shall in accordance with the procedures established by the organic law:

- a) review the constitutionality of a normative act with respect to the fundamental human rights enshrined in Chapter Two of the Constitution on the basis of a claim submitted by a natural person, a legal person or the Public Defender;
- b) make decisions on the constitutionality of a normative act on the basis of a claim submitted by the President of Georgia, by at least one fifth of the Members of Parliament, or by the Government;
- c) on the basis of a submission by a common court, review the constitutionality of a normative act to be applied by the common court when hearing a particular case, and which may contravene the Constitution according to a reasonable assumption of the court;
- d) review disputes about the competences of a respective body on the basis of a claim submitted by the President of Georgia, Parliament, the Government, the High Council of Justice, the General Prosecutor, the Board of National Bank, the General Auditor, the Public Defender or the supreme representative or executive body of an autonomous republic;
- e) review the constitutionality of international treaties on the basis of a claim submitted by the President of Georgia, the Government, or by at least one fifth of the Members of Parliament;
- f) review the constitutionality of activities of a political party, or of the termination of powers of a member of the representative body elected upon nomination by this political party, on the basis of a claim submitted by the President of Georgia, the Government, or by at least one fifth of the Members of Parliament;
- g) review the constitutionality of Parliament's decision to acknowledge or prematurely terminate the powers of a Member of Parliament, on the basis of a claim submitted by at least one fifth of the Members of Parliament or the respective individual;
- h) review disputes related to norms regulating referendums or elections, and the constitutionality of referendums and elections held or to be held based on these norms, on the basis of a claim submitted by the President of Georgia, by at least one fifth of the Members of Parliament, or by the Public Defender;
- i) review the constitutionality of a normative act with respect to Chapter Nine of the Constitution on the basis of a claim submitted by the representative body of a local self-government;

concluding sub-paragraph j) of that provision, according to which the Court shall “exercise other powers determined by the Constitution.”

57. Secondly, the Venice Commission notes that Article 23 of the Constitution which guarantees the freedom of political parties and provides for the possibility of banning a party under certain conditions, does not explicitly foresee any measures against “associated” persons. Furthermore, Article 37(4) of the Constitution provides for ineligibility for parliamentary elections only for persons who have been sentenced to imprisonment by a court judgment. It is thus unclear on what constitutional basis the amendments introduce other cases of ineligibility and measures against persons “associated” with prohibited parties.

58. In the view of the Venice Commission, it is of great importance to ensure that these concerns are properly examined and, if need be, addressed by the authorities.

## **V. Conclusion**

59. At the request of the President of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, Ms Zanda Kalniņa-Lukaševica, the Venice Commission assessed the amendments of 16 October 2025 to the Organic law “On Political Associations of Citizens”, to Article 381 of the Criminal Code, to the Organic Law “On the Constitutional Court of Georgia”, and to the Election Code of Georgia.

60. The Venice Commission notes that the October 2025 amendments further develop the interconnected legal framework governing the prohibition of political parties and the consequences flowing therefrom for both political parties and individuals “associated” with such parties. They introduce far-reaching and severe restrictions on such individuals in terms of their ability to participate in political life, including by establishing, joining or leading political parties, standing for election, retaining electoral mandates, holding public or political office, and engaging in electoral processes. In parallel, the amendments to the Criminal Code introduce criminal liability in the form of fines for political parties that fail to comply with, or hinder the execution of, decisions of the Constitutional Court in this area.

61. While under international standards the prohibition of a political party and related sanctions, including certain sanctions against its party members that represent a threat to the democratic system, may be justified under very limited circumstances, notably the necessity for a democracy to defend itself, subject to strict legitimate aims and proportionality requirements, the Venice Commission is of the view that there is no evidence that the October 2025 package would have responded to such a necessity. The restrictions imposed on individuals “associated” to dissolved political parties raise serious concerns under international human rights standards. The regulatory framework lacks legal certainty and foreseeability, as key triggering concepts, such as the notion of individuals “associated” with a prohibited political party, are formulated in overly broad and imprecise terms, conferring excessive discretion on the authorities. It imposes severe consequences on the freedom of association and electoral rights of individuals which are triggered by the prohibition of a political party without ensuring a genuine, individualised assessment of personal conduct, responsibility, or intent, thereby raising concerns of guilt by association. The severity and disproportionality of the cumulative restrictions constitute an additional shortcoming, since the combined exclusions from political parties, electoral participation, public office, and representative mandates affect the core of political rights without clear temporal limits or effective review mechanisms. Finally, the measures risk undermining electoral processes and political pluralism, as the removal of candidates or termination of mandates – particularly when applied through expedited procedures during electoral periods – may distort electoral competition and voters’ freedom of choice.

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j) exercise other powers determined by the Constitution.”

62. In light of these conclusions, the Venice Commission considers that the legislation under examination does not pursue the stated aim of protecting the constitutional order from violent constitutional change, threats to independence, territorial integrity, war propaganda, violence, incitement to national, regional, religious or social hatred. It rather imposes disproportionate and unnecessary restrictions on the political freedom of the Georgian citizens, in particular preventing the formation and survival of a political opposition – especially when considering the cumulative and systemic impact of the legislative framework as a whole, including the recent amendments that expanded the grounds for banning political parties and which barred any individual working for a “foreign agent” from joining a political party or an “organisation with declared party-political objectives” for eight years. Rather than protecting the constitutional order, this legislation therefore risks undermining it profoundly. It is contrary to international standards on pluralism and democracy.

63. The Venice Commission regrets that the authorities of Georgia have not wished to engage with it in the preparation of this Opinion but remains open to dialogue.

64. The Commission remains at the disposal of the Parliamentary Assembly for further assistance in this matter.