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FREEDOM OF ASSEMBLY V. FREEDOM FROM ASSEMBLY: THE CURIOUS CASE OF GEORGIA

Abstract

Freedom of assembly, in the context of both freedom of expression and other rights, carries, not only personal, but also state-level significance. This is especially true for so-called modern democracies, which still have much to prove in terms of human rights, democratic values, and the rule of law. This article reviews the legal standard of freedom of assembly in Georgia, its constitutional foundations, legislative regulation, and the normative framework for organizing, conducting, prohibiting, or terminating assemblies/demonstrations. The paper analyses the series of legislative amendments in recent years that have led to extreme restrictions on freedom of assembly, with accompanying severe administrative and criminal consequences.

Keywords

freedom of assembly; demonstration; mass protest; Georgia

Introduction

Freedom of assembly is one of the most important and distinctive fundamental rights recognized in international, regional, and domestic legal orders. Its normative foundations are laid down in Article 20 of the Universal Declaration of Human Rights, Article 21 of the International

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Covenant on Civil and Political Rights, Article 11 of the European Convention on Human Rights, and Article 12 of the Charter of Fundamental Rights of the European Union, while at the national level its guarantees are typically entrenched in constitutions and other constitutional instruments. Despite its particular social and political importance, freedom of assembly is not an absolute right and may be subject to a range of restrictions. At the same time, an excessively broad interpretation of the grounds for limitation may create space for unjustified interference with this fundamental freedom, the consequences of which ultimately extend beyond the individual case and bear directly on the state of the rule of law and the quality of democracy.

Freedom of assembly serves as a measure and assessment criterion for determining the quality and openness of a state.[1] On one hand, it is connected to the constitutional principle of democracy, and on the other, to human dignity and the respect and recognition of personal freedom.[2] Political rights, including freedoms of expression and assembly, hold particular significance for Georgia, which remains in perpetual turbulence owing to the unfortunate consequences of its forced Soviet experience, an unconsolidated society, and the influence of Russia's soft power.

The constitutional reform of 2017-2018 amended Chapter 2 of the Constitution of Georgia too (Human Rights). Among these amendments, the constitutional norm regarding freedom of assembly was modified, establishing the foundation for continuous and systematic alterations to the space associated with this right, drastically reducing its content and implementation possibilities.

The first severe and pronounced blow to the freedom of assembly was delivered by the Georgian Parliament in 2023, when it expedited legislative amendments related to this right through an accelerated procedure.[3] The OSCE/ODIHR negatively evaluated the law and, alongside substantive problems with the provisions, emphasized the inap-

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[1] Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, para. II-25.

[2] L. Izoria et al., *Commentaries to the Constitution of Georgia: Basic Rights and Freedoms*, Meridiani Publishing, 2005, p. 217.

[3] See: OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/487/2023 [AlC/NR], Warsaw, 6.11.2023, pp. 9-10.

propriateness of accelerating any legislative procedure concerning the freedom of assembly.[4] The parliamentary elections of October 2024 triggered mass demonstrations, against which the authorities deployed "water cannons, pepper spray, and other chemical irritants," resulting in various health injuries to hundreds of people,[5] unlawful detentions, and violence against protesters by unidentified individuals.[6] The Parliamentary Assembly of the Council of Europe condemned the disproportionate use of force at protest rallies and the violations of human rights.[7] All this created a continuous causal chain of events and laid the groundwork for the 2024–2025 legislative amendments to assembly and demonstration laws, which were negatively assessed by OSCE/ODIHR, which called on Georgia to abolish unpredictable regulations and prohibitions that hinder the full realization of freedom of assembly, criminalize various actions, or artificially intensify administrative liability.[8]

Given the ongoing political processes in Georgia, freedom of assembly and its legal guarantees of implementation have greater significance than ever before. Moreover, an objective and legal analysis of these events is essential, based on facts, judicial practice, normative logic, and the experience that has led to this stage. This paper attempts to review the regulation of freedom of assembly in Georgia, its substantive aspects, the scope of rights implementation, the legitimate means of intervention, and the boundary that distinguishes lawful assembly from unlawful. Through hermeneutical analysis of the case law of the Constitutional Court of Georgia, in a comparative legal context, the paper highlights problems related to freedom of assembly and ways to overcome them for the Georgian perspective, aiming for better normative regulation and effective implementation of rights.

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[4] *Ibid*., p. 23.

[5] UN Special Rapporteurs, Joint Statement of 28 January 2025, available at: https://www.ohchr.org/en/press-releases/2025/01/georgia-must-investigate-use-force-police-during-demonstrations-experts [last accessed: 28.03.2026].

[6] COE Human Rights Commissioner, Statement of 24 January 2025, available at: https://www.coe.int/en/web/commissioner/-/georgia-protect-freedom-of-assembly-and-expression-ensure-accountability-for-human-rights-violations-and-end-stigmatisation-of-ngos-and-lgbti-people [last accessed: 28.03.2026].

[7] PACE Resolution 285 (2025), 29.01.2025, para. 5.

[8] See: OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/536/2025 [TN], Warsaw, 6 March 2025, pp. 3-4.

I. Freedom of assembly in Georgia: development and current status

1. Constitutional framework

Freedom of assembly was first defined in Georgian constitutional history by the Constitution of 1921.[9] Following the occupation and the de facto termination of the first Constitution, Georgia endured lengthy Soviet tyranny during which several quasi-constitutions operated. However, freedom of assembly first formally appeared only in the Constitution of 1937.[10] This was particularly cynical and would have been paradoxical if not for one interesting circumstance: like everything else in the Soviet Union, this provision was non-functional and merely a facade.

After the restoration of independence, the Constitution of 1995 included a provision recognizing freedom of assembly as a fundamental right. The constitutional provision underwent fundamental changes during the reforms of 2017–2018, with only one previous technical amendment in 2005.[11] Today, freedom of assembly is regulated by Article 21 of the Constitution of Georgia, which encompasses three main aspects: 1. It establishes everyone's right to assemble publicly and unarmed without prior permission, except for members of the Defence Forces or persons responsible for state or public security; 2. For assemblies held in places of public movement or transportation, it provides for the possibility of giving prior notice to authorities; 3. It defines the possibility of terminating an assembly if it assumes an unlawful character.

The Venice Commission, in its preliminary opinion on the constitutional reform, negatively assessed the scope of restrictions on freedom of assembly established by the foundational constitutional norm. The Commission criticized the fact that the norm allows the state to impose restrictions through current legislation. Consequently, the Commission

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[9] Constitution of the Democratic Republic of Georgia, 21.02.1921, Articles 33, 34.

[10] P. Turava (ed.), *Commentary on the Constitution of Georgia, Second Chapter, Citizenship of Georgia, Basic Human Rights and Freedoms*, Petit, 2013, p. 282.

[11] B. Loladze, A. Phirtskhalashvili, *Basic Rights: A Commentary*, East West Management Institute, 2023, p. 550.

recommended that Georgia consider the legal grounds established by Article 11(2) of the European Convention and regulate the issue similarly.[12] The current Georgian constitutional norm grants the state excessive discretion to define and expand the possibility of restricting rights through legislation.[13] Ultimately, the government has exploited this discretion through systematic amendment at the current legislative level and additional obligations, severely narrowing the content of freedom of assembly.

2. Normative foundations

The constitutional standard for freedom of assembly allows for legislative intervention in the protected sphere of this fundamental right. Therefore, legislative regulation, which effectively determines the content and scope of this right, is of particular importance. Public authorities are obligated to take all necessary measures (lawmaking, its effective implementation, administrative measures, etc.) to ensure the protection of assembly participants.[14]

The normative regulation of freedom of assembly is primarily based on legislative acts, among which the Law of Georgia "On Assemblies and Demonstrations" plays a special role as a key legal act in this field from both constitutional and administrative perspectives. The Administrative Offences Code of Georgia makes a blanket reference to this law in cases of violations of assembly organization and conduct rules.[15] However, various articles of this code are applied when responding to potential offences during assemblies (for example, vandalism, minor hooliganism, disobedience to authorities, defacement of city appearance, etc.).

In certain matters, actions – especially in cases of violence, disruption of constitutional order, and similar calls - can escalate from administrative offences to crimes and fall directly within the scope of the

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[12] Venice Commission, Opinion N876/2017, CDL-AD(2017)013, 19.06.2017, para. 69.

[13] Venice Commission, Opinion N876/2017, CDL-AD(2017)023, 9.10.2017, para. 40.

[14] Decision N1/3/538 of the Constitutional Court of Georgia, 24.06.2014, para. II-8.

[15] Administrative Offences Code of Georgia, 15.12.1984, Article 174[1].

Criminal Code of Georgia. Several provisions of the Code apply both directly and by reference to assembly organizers and participants.

From an administrative perspective, the Law of Georgia "On Police" is also relevant, as it defines police powers. Decisions regarding the restriction of traffic movement, its restoration, and opening of roadways are made by the Ministry of Internal Affairs, taking into account the number of participants in the assembly/manifestation.[16] Since police forces have jurisdiction over maintaining safety and order during assemblies, as well as combating unlawful assemblies, orders of the Minister of Internal Affairs of Georgia are also used in addition to legislative acts.

Prior to the constitutional reforms of 2017-2018 and recent legislative amendments, Georgian regulation of freedom of assembly was founded on liberal approaches.[17] The constitutional reform and the expansion of the scope of legislative intervention in freedom of assembly placed the Law of Georgia "On Assemblies and Demonstrations" under significant challenges and called into question its compliance with European standards.[18]

In autumn 2023, the Parliament of Georgia introduced significant legislative amendments to the Law of Georgia "On Assemblies and Demonstrations", which the President of Georgia vetoed. Nevertheless, Parliament overrode the veto and enacted the amendments.[19] Parallel to the presidential veto, the Public Defender of Georgia addressed the OSCE/ODIHR, which assessed and criticized the draft law.[20]

Following the October 2024 parliamentary elections, in an effort to maximally restrict prolonged and continuous protest actions, the Parliament of Georgia intensively amended legislation, including the Administrative Offences Code and the Criminal Code. The December 2024 legislative amendments were followed by February 2025 amendments,[21]

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[16] See: Article 11[1].

[17] Megrelishvili, *Freedom of Assembly in Georgia*, p. 1, available at: https://www.icnl.org/wp-content/uploads/cfr_FoA-in-Georgia.pdf [last accessed: 28.03.2026]

[18] Key Issues, Research Centre of the Parliament of Georgia, 2021, p. 21.

[19] OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/487/2023 [AlC/NR], Warsaw, 6.11.2023, p. 6.

[20] *Ibid*.

[21] Venice Commission, Opinion N1226/2024, CDL-AD(2025)004, 3.03.2025, para. 1.

which further complicated the exercise of freedom of assembly. Both packages of legislative amendments were adopted through accelerated procedures, essentially without substantive review.[22] This illustrates the public authorities' approach to fundamental human rights.

The December 2024 legislative amendments not only restricted freedom of assembly and manifestation, but also introduced changes to the Law "On Public Service," which simplified the dismissal of public servants and effectively eliminated their legal guarantees, primarily in connection with their participation in protest actions.[23] The Public Defender of Georgia strongly criticized the February 6, 2025 legislative amendments, both for their content and for the accelerated legislative procedures, which completely excluded the involvement of interested parties in discussions, and the adoption of such significant issues based on proper discussion, study, and analysis[24]. The Public Defender of Georgia addressed OSCE/ODIHR requesting examination and legal opinion on the legislative package related to freedom of assembly.[25]

The February 6, 2025 amendments restricted freedom of assembly, made legal liability for offences even more disproportionate, and expanded the powers of the Ministry of Internal Affairs and the executive branch.[26] As a result, the areas delegated by the Constitution to special legislation for establishing rational restrictions and logical, rational frameworks for freedom of assembly have, unfortunately, been subjected to completely unreasonable and unjustified intervention,

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[22] GD Parliament Adopts Repressive Amendments in Third Reading, 6 February 2025, available at: https://civil.ge/archives/660718 [last accessed 28.03.2025]

[23] Explainer | Facing Resistance, Georgian Dream Rushes in Repressive Laws, 17 December 2024, available at: https://civil.ge/archives/645520 [last accessed 28.03.2026]

[24] Public Defender's Statement on Planned Legislative Amendments, 4 February 2025, available at: https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelisgantskhadeba-tsardgenil-sakanonmdeblo-tsvlilebebtan-dakavshirebit [last accessed 28.03.2026]

[25] Public Defender Applies to OSCE/ODIHR regarding Proposed Legislative Amendments, 5 February 2025, available at: https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelma-dainitsiirebul-sakanonmdeblo-tsvlilebebtan-dakavshirebit-eutoodirs-mimarta [last accessed 28.03.2026]

[26] Repressive Rules Aim to Abolish Freedoms of Assembly and Expression, 6 February 2025, available at: https://transparency.ge/en/post/repressive-rules-aim-abolish-freedoms-assembly-and-expression [last accessed 28.03.2026]

causing the entire legislation's tenor and character to shift sharply toward the negative.

II. Assembly, demonstration, and spontaneous assembly

Freedom of assembly is the *lex specialis* of freedom of expression, and the Constitutional Court of Georgia considers it precisely within this unified context.[27] Georgian legislation identifies the main characteristics of an assembly as the gathering of citizens and the purpose of this gathering - to express solidarity or protest. According to the Constitutional Court, assemblies and demonstrations must carry a specific purpose or common idea; otherwise, a mechanical unity of people that does not serve to express an opinion would not be protected by freedom of assembly.[28] Notably, the Court does not exhaustively define the purpose of assembly and associates it with a broad spectrum of possibilities, which may include protest, solidarity, specific demands, etc.[29]

The Law of Georgia "On Assemblies and Demonstrations" distinguishes between two main types of gatherings: assembly proper and demonstration, with the main difference being that demonstration involves public procession, mass public appearance - a dynamic element.[30] Different from standard assemblies/demonstrations is the spontaneous assembly, which has recently been introduced into the law and is defined as an assembly/demonstration that is held unplanned and immediately owing to a significant social event that could not have been anticipated in advance.[31]

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[27] T. Tughushi et al., *Human Rights and Case-Law of the Constitutional Court of Georgia*, Sezane, 2013, p. 316.

[28] Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, para. II-4.

[29] *Ibid*., para. II-99.

[30] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 3(a)(b).

[31] *Ibid*., Article 3(c).

III. Organization of and participation in assembly

According to the Constitutional Court of Georgia's interpretation, freedom of assembly includes: 1. Freedom to choose the location of assembly; 2. The right to choose the time of assembly; 3. The right to choose the form of assembly; 4. The right to choose the content of assembly.[32] Some of these aspects address the actions of assembly organizers and participants, while others concern public authorities, which are restricted by this fundamental right.

The Georgian legislation initially designated "citizens" as the addressees of freedom of assembly. However, the Constitutional Court expanded this circle and clarified that the term "citizen" for the purposes of freedom of assembly carries the same meaning as the term "person."[33] Consequently, freedom of assembly can be enjoyed by all persons and is not restricted by citizenship. It extends to legal entities as well,[34] not for participation in assemblies, but for the possibility of organizing them.

Owing to the significance of freedom of assembly, certain exceptions may be associated with it, though each such exception must be interpreted very narrowly.[35] According to the Constitution of Georgia, members of the defence forces or persons responsible for state or public security cannot exercise the freedom of assembly.[36] Certain restrictions may exist regarding the freedom of expression of public servants,[37] and similar restrictions on the freedom of assembly for certain categories of persons are justified considering the specifics of these persons' activities,[38] ethics, and principles.[39] The Law of Georgia "On Assemblies

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[32] See: Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, paras. II-34, 55.

[33] See: Decision N2/2/180-183 of the Constitutional Court of Georgia, 5.11.2002.

[34] Tughushi at al., *Human Rights and Case-Law*, p. 329.

[35] See: *Kudrevicius and Others v. Lithuania*, Application no. 37553/05, Judgment of 25.10.2015, para. 142; *Navalnyy v. Russia*, Application nos. 29580/12 and 4 others, 15.11.2018.

[36] Constitution of Georgia, 24.08.1995, Article 21(2).

[37] See: *Ahmed and Others v. UK*, Application no. 22954/93, Judgment of 2.09.1998, para. 61.

[38] Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, paras. II-138, 141.

[39] N. Tsukhishvili, *Freedom of Expression of a Civil Servant: Georgian Legislation and the Standard of the European Court of Human Rights*, in K. Kokelia (ed.), Protection of Human

and Demonstrations" provides a detailed list of "persons within the defence forces or state or public security protection bodies".[40]

Georgian legislation defines an organizer of an assembly as the initiator of the assembly/demonstration, as well as a person who leads and/or otherwise organizes the conduct of an assembly/demonstration.[41] This definition was established as a result of the 2025 legislative amendments and significantly expanded the list of persons who are considered responsible for an assembly. The Venice Commission negatively assessed this amendment because it also encompassed assembly leaders and left considerable room for interpretation.[42]

In cases where an assembly/manifestation is held on the roadway or potentially impedes traffic movement, responsible persons must notify the executive body of the municipality in writing at least 5 days before the assembly/manifestation is held.[43] This 5-day mandatory notification period has been declared unconstitutional for spontaneous assemblies, as given the spontaneous nature of such gatherings, it is impossible and inconceivable to comply with this timeframe.[44] The legislation now requires immediate notification within a reasonable timeframe for spontaneous assemblies.[45] When exercising freedom of assembly, circumstances or reasons that were not previously anticipated may naturally arise,[46] making it impossible to provide advance notification to public authorities or comply with other necessary procedures.

Notification of authorities should not be equated with obtaining prior permission, as freedom of assembly by its very nature excludes the

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Rights, Constitutional Reform and the Rule of Law in Georgia, East-West Management Institute, 2017, p. 166.

[40] See: Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 3 (i.a-i.p).

[41] *Ibid*., Article 3(e).

[42] Venice Commission, Opinion N1226/2024, CDL-AD(2025)004, 3.03.2025, para. 39.

[43] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Articles 5 and 8(1).

[44] See: Decision N3/3/1635 of the Constitutional Court of Georgia, 14.12.2023.

[45] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 8(1^1).

[46] *Lashmankin and Others v. Russia*, Application nos. 57818/09 and 14 others, Judgment of 7.02.2017, para. 452.

establishment of any form of permission.[47] It is unconstitutional to establish a prior notification obligation that requires consent from local self-government.[48] Moreover, Municipal bodies are obligated to ensure appropriate conditions for assemblies and manifestations.[49]

IV. Illegal assembly, restriction of freedom of assembly, and legal liability

1. Unlawful assembly

Freedom of assembly is a protective right that shields individuals from unjustified state interference in their gatherings, though it also belongs to *status activus*.[50] There are legal circumstances under which conducting an assembly may be prohibited. Such prohibitions preventively safeguard public interests and the rights of others. Preventive restrictions may relate to the location, form, and content of the assembly. The Ministry of Internal Affairs of Georgia is obligated to prohibit an assembly if, according to verified police data, the assembly could potentially threaten the constitutional order or the life and health of citizens.[51] A decision prohibiting the holding of an assembly/demonstration may be appealed against to the court, which must render a decision within 2 working days.[52] Stemming from populist motives, Georgian legislation was amended with an additional provision prohibiting assemblies/demonstrations related to gender and sexual issues.[53]

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[47] Decision N2/2/180-183 of the Constitutional Court of Georgia, 5.11.2002, para. 6.

[48] *Ibid*.

[49] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 12(1).

[50] L. Izoria et al., *Commentaries to the Constitution of Georgia: Basic Rights and Freedoms*, Meridiani Publishing, 2005, p. 218.

[51] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 14(1).

[52] *Ibid*., Article 14(2).

[53] Specifically, the promotion of non-attribution to either human sex, sexual orientation-based relationships between individuals of the same biological sex, or incest. See: *Ibid*., Article 9(6).

Assemblies are prohibited in buildings of special importance and within a twenty-meter radius of their entrances. Such establishments include: prosecutor's offices, police stations, penitentiary institutions (in the external restricted zone and within a twenty-meter radius thereof), law enforcement bodies, as well as railway stations, airports, and ports.[54] When establishing restrictions related to institutions, the specific nature and character of the institution itself must be considered.[55] The Constitutional Court justifies certain restrictions on the exercise of freedom of assembly near specific facilities for the purpose of ensuring these facilities can fully function according to their intended purpose.[56] As necessary, administrative bodies and the court may establish restrictions on assemblies/demonstrations near their buildings, but in accordance with general rules and in a manner that does not undermine the very essence of freedom of assembly.[57]

If the assembly's target is not a judge and the gathering near their residence occurs merely by coincidence, the legally established restriction does not apply.[58] In other cases, the Constitutional Court declared, that holding an assembly against a judge near their residence is impermissible. Despite the close connection between freedom of expression and freedom of assembly, the Constitutional Court's approach regarding a judge's residence is not justified,[59] since civil protest concerning a court decision does not imply demanding any form of accountability from the judge.

Artificial blockage of roadways is prohibited unless required by the number of assembly or demonstration participants. Similarly, blocking roadways with vehicles, various structures, and/or objects is impermissible.[60] Road closures and traffic restrictions must be necessitated by large crowds, which naturally justifies the limitation of others' rights.[61]

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[54] *Ibid*., Articles 1, 1^1.

[55] Turava, *Commentary*, p. 287.

[56] Decision N2/2/180-183 of the Constitutional Court of Georgia, 5.11.2002, para. 7.

[57] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 9(4)(5).

[58] Tughushi, *Human Rights and Case-Law*, p. 347.

[59] Turava, *Commentary*, p. 287.

[60] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 11^1(4).

[61] Turava, *Commentary*, p. 288.

Following the forms of protest used during demonstrations against the 2024 election results, legislation was expeditiously amended to prohibit the blocking of building entrances, highways, and other transportation facilities.[62]

The 2023 amendments established prohibitive norms regarding the installation and use of temporary structures, including tents, at assemblies.[63] The OSCE/ODIHR negatively assessed the ban on setting up any temporary structures or tents and recommended that the restriction be more detailed and focused only on temporary structures that would cause unnecessary and deliberate artificial disruption to railway and vehicular traffic.[64] The Parliament of Georgia not only disregarded this recommendation, but conversely expanded the list of prohibitions and restrictions.

Recent amendments have prohibited conducting assemblies in enclosed spaces/buildings without the prior written consent of the owner.[65] In the case of private property, this was already natural and had not previously emerged as a challenge. However, extending this provision to public institutions, which have an obligation of tolerance and whose representatives are the main addressees of the realization of freedom of assembly as government officials, is entirely unjustified and devoid of logic. This prohibition makes the exercise of freedom of assembly inconceivable.

2. Termination of assemblies

The Constitution of Georgia protects only peaceful assemblies; any non-peaceful gathering may be subject to prohibition, dispersal, or other sanctions.[66] For the termination of an assembly, it is necessary to con-

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[62] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 9(2).

[63] OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/487/2023 [AlC/NR], Warsaw, 6.11.2023, p. 12.

[64] *Ibid*., p. 19.

[65] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 9(12).

[66] Decision N2/2/180-183 of the Constitutional Court of Georgia, 5.11.2002, para. 10.

firm that it has indeed taken on an unlawful character, and only after this should appropriate termination mechanisms be employed.[67] During the organization and conduct of assemblies and demonstrations, it is prohibited to call for: 1. The overthrow or violent change of Georgia's constitutional order; 2. Violation of the country's independence and territorial integrity; 3. Violence or the propagation of violence that incites national, regional, religious, or social strife.[68] Additionally, such calls must cumulatively create a clear, direct, and substantial threat.[69]

According to the case law of the Constitutional Court of Georgia, an assembly takes on an illegal character in the following cases: 1. People gather with the purpose of violence; 2. The assembly was not initially violent nor organized for this purpose, but it acquired such a character. Violence by individual persons cannot affect the overall character of the assembly.[70] To determine the unlawful nature of an assembly, a test established by the Constitutional Court is used: 1. There exists a fact of incitement to crime; 2. The incitement to crime is widespread; 3. The incitement to crime affects the course, purpose, and motivation of the assembly.[71]

The Law of Georgia "On Assemblies and Demonstrations" directly enumerates those objects and items that participants of assemblies/demonstrations are prohibited from possessing.[72] Recent amendments have prohibited the use of pyrotechnics, as well as covering one's face with masks and other means,[73] which is highly problematic and makes both the norm and its practical application unpredictable, especially since legal liability is provided for violating these rules. The Venice Commission considered the rule prohibiting covering one's face with a mask or other means problematic owing to its ambiguity and content.[74]

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[67] *Ibid*.

[68] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 11(1).

[69] Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, para. II-104.

[70] Tughushi, *Human Rights and Case-Law*, p. 323.

[71] Decision N2/482,483,487,502 of the Constitutional Court of Georgia, 18.04.2011, para. II-103.

[72] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 11(2).

[73] *Ibid*., Article 11(2.a-a[1]).

[74] Venice Commission, Opinion N1226/2024, CDL-AD(2025)004, 3.03.2025, para. 33.

The legislation distinguishes between mass and non-mass violations of assembly/demonstration rules. In cases of mass violations, the assembly/demonstration must cease immediately upon the request of the Ministry of Internal Affairs. In cases of non-mass violations, no later than 15 minutes after receiving a warning from an authorized person, the organizer is obligated to call upon participants to eliminate the violation and to take reasonable actions to do so.[75] A decision to terminate an assembly can be appealed against to the court within a period of three working days.[76]

For restricting assemblies and demonstrations, the state must first evaluate the necessity of interfering with freedom of assembly and determine the proportionality of the restriction,[77] though this discretion is not always justified. As a result, public authorities sometimes abuse this exclusive right and often impose unjustified restrictions. To limit freedom of assembly, not only must the principle of proportionality be observed, but there must also be a legal interest of equal value to counterbalance it.[78] Without such measurable, specific criteria, it is impossible to control the actions of public authorities and ensure proper enjoyment of freedom of assembly.

3. Liability for violating freedom of assembly standards

Violation of assembly rules may entail certain administrative liability, but administrative penalties must be proportionate and reasonable.[79] Otherwise, they cannot be considered proportional means of achieving a legitimate aim. Many provisions of the Administrative Offences Code are applied in the context of exercising freedom of assembly, par-

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[75] Law N763–IIS of Georgia "On Assemblies and Demonstrations", 12.06.1997, Article 13(1-2).

[76] *Ibid*., Article 13(7).

[77] L. Kasradze, *Limitation of the Freedom of Assembly for Protection of Moral and Other Legal Goods – Uniform Approach or Double Standard of the European Court of Human Rights*, in K. Kokelia (ed.), Protection of Human Rights, Constitutional Reform and the Rule of Law in Georgia, East-West Management Institute, 2017, p. 113.

[78] Decision N2/2/180-183 of the Constitutional Court of Georgia, 5.11.2002.

[79] Recording Notice N4/482,483,487,502 of the Constitutional Court of Georgia, 20.11.2010, para. II-8.

ticularly regarding unlawful assemblies or resistance during the dispersal of assemblies. However, two articles directly address assemblies/demonstrations. Article 174[1] regulates offences related to violations of rules for organizing and conducting assemblies or demonstrations, while Article 174[2] addresses public authorities as it concerns obstruction of assemblies or demonstrations through abuse of official position. It is an unfortunate reality that the latter has been amended only once and is hardly ever applied in practice, whereas Article 174[1] is one of the most frequently changed provisions in the code and is actively used. The OSCE/ODIHR considered the amendments to Article 174[1] and the measure of administrative liability to be inconsistent with international and regional human rights standards.[80]

The legislative amendments of 2024-2025 were primarily focused on several directions: 1. New administrative offences were introduced while the content of existing ones was expanded; 2. Sanctions for administrative offences were increased; 3. The grounds for administrative detention were expanded; 4. Rules for exercising freedom of assembly were revised.[81] The amendments strengthened liability for vandalism, petty hooliganism, obstruction of transportation movement, defacement of municipal territory, and violation of rules for organizing and conducting assemblies and demonstrations. They affected both the dispositions and content of specific norms, as well as the administrative liability component - fines were increased, the maximum term of administrative detention was extended to 60 days, and in many cases of administrative offences related to freedom of assembly, the authority to impose administrative fines was transferred from the court to the executive branch.[82] The fine for violating of assembly rules is almost four times higher than the average salary in Georgia,[83] which directly indi-

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[80] OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/487/2023 [AlC/NR], Warsaw, 6.11.2023, p. 21.

[81] Venice Commission, Opinion N1226/2024, CDL-AD(2025)004, 3.03.2025, paras. 10-17.

[82] Law N169-Iმს-XIმპ of Georgia "Amending Administrative Offences Code of Georgia", 13.12.2024; Law N273-IIმს-XIმპ of Georgia "Amending Administrative Offences Code of Georgia", 6.02.2025.

[83] GD Parliament Adopts Repressive Amendments in Third Reading, 6.02.2025, available at: https://civil.ge/archives/660718 [last accessed 28.03.2025]

cates their disproportionate size and inconsistency with the degree of seriousness of the offence.[84]

In contrast to the continuous, daily protests, Georgia's ruling party, "Georgian Dream," has gradually — step by step — prohibited core elements of the exercise of the freedom of assembly, as well as the forms and means of publicly expressing political views. Administrative and criminal liability was tightened through the amendments of October and December 2025: sanctions were increased, and administrative detention was established as the only form of liability for covering one's face at an assembly and for blocking the sidewalk.[85] The legislative reform was assessed negatively by OSCE/ODIHR, citing the amendments' excessively restrictive character, uncertainty, and the vagueness and ambiguity of the norms.[86]

A peaceful demonstration, by its nature, cannot result in criminal liability as a legal consequence,[87] especially not imprisonment.[88] According to the European Court of Human Rights, where a person's conduct is non-violent, does not pursue violence as its aim, and in reality lacks the capacity to result in violence, that person's arrest is impermissible. In a democratic society, greater tolerance must be shown towards individuals who hold and express different and critical views.[89] However, an unlawful assembly may include elements of various crimes, which may lead to criminal liability and corresponding punishment. Article 239^1 of the Criminal Code of Georgia addresses, among other things, unlawful calls at assemblies and demonstrations. Similarly, the content of Articles 353 and 353^2 includes threats, violence, attacks, and other actions against public order defenders or other government representatives, which is relevant in the context of freedom of assembly. Moreover,

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[84] Venice Commission, Opinion N1226/2024, CDL-AD(2025)004, 3.03.2025, para. 50.

[85] Law 1204-IVმს-XIმპ of Georgia "Amending Administrative Offences Code of Georgia", 10.12.2025; Law N992-IVმს-XIმპ of Georgia "Amending the Criminal Code of Georgia", 16.10.2025.

[86] OSCE/ODIHR, Opinion-Nr.: FOPA-GEO/564/2025 [ALC/TN], Warsaw, 12.11.2025.

[87] *Akgol and Gol v. Turkey*, Application nos. 28495/06 and 28516/06, Judgment of 17.05.2011, para. 43.

[88] *Gun and Others v. Turkey*, Application no. 8029/07, Judgment of 18.06.2013, para. 83.

[89] *Chkhartishvili v. Georgia*, Application no. 31349/20, Judgment of 11.05.2023.

these norms are used for this purpose, and the content of these norms was amended specifically to restrict assemblies.[90]

The 2025 legislative amendments added a note to the Criminal Code, according to which, for the purposes of Article 222 (seizure or blockade of broadcasting or telecommunications facilities or strategic or specially important facilities), the list of strategic or specially important facilities is approved by the Government of Georgia through a decree.[91] Such regulation is inherently unconstitutional, as it delegates the determination of criminalization to the government, which is impermissible. In effect, by approving the list of strategic facilities, the government will be able to expand or reduce the disposition of the Criminal Code norm. Naturally, these changes are related to the goal of maximally restricting freedom of assembly, but they are connected to much more serious and profound problems - by delegating legislative power of criminalization to the executive, the foundations of the separation of powers are undermined.

To criminalize the use of pyrotechnic products during the exercise of freedom of assembly, the Article 244 of the Criminal Code was clarified,[92] effectively preventing anyone from using any type of pyrotechnics during protest actions. The continuous response from public authorities following specific protests and their forms, answering protest with legislation and tightening legal liability, is an unhealthy reaction that not only exceeds the criterion of necessity in a democratic society, but also calls into question the sustainability and proper functioning of the very legal order within which these forms of response are employed.

In October 2025, Article 347 of the Criminal Code of Georgia was amended, regulating violations of the rules on holding an assembly or demonstration. Liability was tightened; certain repeat offences related to freedom of assembly were criminalized; and the provision's disposition was drafted in an entirely uncertain manner. In parallel, the Code was supplemented with Article 353³, which provides that disobedience

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[90] Law N275-IIმს-XIმპ of Georgia "Amending the Criminal Code of Georgia", 6.02.2025.

[91] Law N285-IIმს-XIმპ of Georgia "Amending the Criminal Code of Georgia", 6.02.2025.

[92] Law N175-Iმს-XIმპ of Georgia "Amending the Criminal Code of Georgia", 13.12.2024.

to a lawful order issued by an official representative of the state at an assembly or demonstration - committed by a person who has previously been punished administratively for such disobedience - now entails criminal liability.[93]

The liability standard relating to freedom of assembly in Georgia reached its high point as a result of the legislative amendments of 10 December 2025. Symbolically, on International Human Rights Day, liability was introduced for obstructing pedestrian movement[94] - in practice, for demonstrations on sidewalks. This would appear as a malicious legislative joke were it not for the fact that individuals have already been punished with administrative detention for this conduct. Most importantly, repeat commission of this act (in the literal sense, standing on a sidewalk) entails criminal liability.

Administrative and criminal liability are actively employed to punish and intimidate participants in assemblies.[95] Persons detained during demonstrations are, as a rule, subjected to the harshest sanctions, including detention, imprisonment, and disproportionate fines. The initiation of criminal proceedings frequently fails to satisfy the standard of reasonable doubt; the judgment is biased; cases are fully politically motivated; and their primary purpose is retaliation.[96] Regrettably, the exercise of freedom of assembly often becomes intertwined with the violation of the right to a fair trial.[97]

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[93] Law N992-IVმს-XIმპ of Georgia "Amending the Criminal Code of Georgia", 16.10.2025.

[94] Law 1204-IVმს-XIმპ of Georgia "Amending Administrative Offences Code of Georgia", 10.12.2025; Law N1203-IVმს-XIმპ of Georgia "On Amending the Law of Georgia on Assemblies and Demonstrations", 10.12.2025.

[95] N. Kurdovanidze, T. Oniani (eds.), *Human Rights Situation in Geogia in 2025, Assessment by the Georgian Young Lawyers' Association*, Gyla, 2025, p. 20.

[96] T. Bochorishvili, Ph. Chapchipadze, T. Kirtava, *The Results of Monitoring Politically Motivated Cases related to Detainees during Protests in 2024-2025 at First Instance Courts,* Gyla, 2025, p. 51.

[97] *Mekvabishvili v. Georgia,* Application no. 37567/23, Judgment of 20.01.2026.

Conclusions

The Georgian regulation of freedom of assembly has travelled a fascinating path. Considering its heavy Soviet legacy, Georgia initially prioritized models of freedom of expression and assembly characterized by liberal democratic features. This was entirely logical – a state facing numerous challenges needed both a positive international image and a mechanism that would allow peaceful expression of public passion and protest. Every government, to varying degrees, has restricted freedom of assembly and attempted to formalize it, strengthening it at the normative level while practically constraining it to the maximum extent, with minimal possibility for realization.

The constitutional reform of 2017–2018 and subsequent legislative amendments significantly altered the status quo. As a result, the legal possibility of interference with freedom of assembly increased. Since 2023, intensive legislative processes have hollowed out the freedom of assembly as a fundamental right in terms of its guarantees, venue, form, and means. Georgian legislation has transformed into a law of assembly prohibitions, which is not only oppressive and unconstitutional, contradicting the standard of the European Court of Human Rights, but also fictitious. Given the scale of legislative amendments implemented against freedom of assembly, the question arises of how to enforce all the normative regulations that have significantly restricted the substantive space of freedom. Many of the norms are doomed to inaction and have only an intimidating psychological effect.

A right that cannot be realized in practice is not a right, but merely a legal formality. To improve the Georgian regulation of freedom of assembly, several important steps must be taken (naturally, with the stipulation that the government must acknowledge the completely unnatural gap that has emerged in the field of fundamental rights, which threatens to destroy statehood entirely):

1. The constitutional norm of freedom of assembly must be changed, and the grounds for interference must be specified to comply with Article 11 of the European Convention on Human Rights.
2. Recent amended provisions must be removed from the Law of Georgia "On Assemblies and Demonstrations," which create un-

predictable, unprojectable legal circumstances and artificial barriers to exercising freedom of assembly.

3. The mechanisms of administrative and criminal liability, which have intensified sanctions and restricted the practical possibility of exercising freedom of assembly, must be changed.

Even implementing these changes will not fully ensure the protection of human rights. This would only be the first effective step towards, on one hand, guaranteeing the proper realization of freedom of assembly, and on the other hand, beginning methodological and gradual care for improving the image and status of public authority, which has been damaged to an unimaginably great extent owing to unjustified dispersal of assemblies, violent treatment of protesters, injuries, and illegal detentions.

In Georgia, recent legislative amendments and the actions of the ruling party have unlawfully restricted freedom of assembly, not merely by confining it within narrow limits, but by hollowing out its very substance. Freedom of assembly has effectively been transformed into freedom from assembly, with a simple and unmistakable objective: to render protest and political demonstration impossible. Disproportionate administrative and criminal sanctions not only violate the most basic standards of fundamental rights protection, but are also aimed at intimidating citizens, creating legal constraints as instruments of pressure, and consolidating a political regime that, instead of upholding the rule of law, advances a mere "state of laws." In turn, this strips Georgia's already fragile hybrid democracy of those very elements that had until now sustained even its formal democratic character.