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## ANALYSIS

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# Anti-Corruption Bureau in Georgia: Policies and Practice Affecting Civil Society

JANUARY 20, 2025

## I. Introduction

In September 2024, the Georgian Anti-Corruption Bureau (ACB) issued decisions designating the status of a “person with a declared electoral goal”<sup>1</sup> to the civil society organizations (CSOs<sup>2</sup>), “Transparency International – Georgia” (TIG)<sup>3</sup> and “Choose Europe.”<sup>4</sup> As a result of such designation, these CSOs were suppressed from registering as observers of the 2024 elections, monitoring the electoral campaign, and other activities relating to the electoral process.<sup>5</sup>

On October 1, 2024, the Prime Minister of Georgia made a statement<sup>6</sup> urging the ACB to exercise its legal discretion and reconsider its decisions regarding the assignment of the status of a “person with a declared electoral goal” to these CSOs, and to refrain from making such designations to other CSOs prior to parliamentary elections. Following this statement, the ACB revoked the status of a “person with a declared electoral goal” from both CSOs. Despite this repeal, CSOs remain concerned that such discretionary decisions of the ACB to designate CSOs as “persons with a declared electoral goal” can be made against other CSOs in the future. Such concerns are real in light of the adoption, in spite of mass protests<sup>7</sup>, of the Law of Georgia on

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<sup>1</sup> The Organic Law of Georgia “On Political Associations of Citizens” uses the word “person” which refers to both natural persons and legal entities (organizations).

<sup>2</sup> The terms “CSO” and non-governmental organizations (“NGOs”) are used interchangeably for the purpose of this document.

<sup>3</sup> “Decision No. 03/028-24 of the Head of the Anti-Corruption Bureau,” Anti-Corruption Bureau (ACB), September 24, 2024, at <https://acb.gov.ge/files/biuro/%E1%83%A1%E1%83%98%E1%83%90%E1%83%AE%E1%83%9A%E1%83%94%E1%83%94%E1%83%91%E1%83%98/antikoruftsiuli-biuros-ufrosis-2024-tslis-24-sektembris-gadatsqvatileba-028.pdf>.

<sup>4</sup> “Decision No. 03/029-24 of the Head of the Anti-Corruption Bureau,” ACB, September 24, 2024, at <https://acb.gov.ge/ka/news/antikoruftsiuli-biuros-ufrosis-2024-tslis-24-sektembris-gadatsqvatileba-029>.

<sup>5</sup> Organic Law of Georgia No. 5636-<sup>რს</sup> ‘Election Code of Georgia’, Parliament of Georgia, December 27, 2011, at <https://matsne.gov.ge/en/document/view/1557168?publication=90>.

<sup>6</sup> Full Statement of the Prime Minister of Georgia, Official Facebook page of the Government of Georgia, October 1, 2024, at <https://www.facebook.com/share/p/YDDbEyRgdaPiGEcn/>.

<sup>7</sup> “Thousands protest as Georgia parliament advances ‘foreign influence’ bill,” Al Jazeera, May 1, 2024, at <https://www.aljazeera.com/news/2024/5/1/eu-condemns-violent-police-crackdown-on-protests-in-georgia>.

Transparency of Foreign Influence<sup>8</sup>, which many CSOs and international organizations regard as negatively affecting civic freedoms in the country.<sup>9</sup>

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This Brief, prepared by the International Center for Not-for-Profit Law (ICNL) and the European Center for Not-for-Profit Law (ECNL) for the United States Agency for International Development (USAID) Civil Society Engagement Program (CSEP), provides an analysis of the decisions of the ACB on their compliance with international standards relating to the civil society's participation in public life, including monitoring and other ways of participation in the electoral process.

The analysis shows that the recent decisions of the ACB designating CSOs as “persons with a declared electoral goal” are not compliant with Georgia’s obligations under international law or with European Union (EU) standards. The decisions were restrictive and unfounded, and consequently, failed to safeguard the civic space and protect the operational environment for CSOs and ensure their independence and ability to function effectively.

## II. The Importance of Anti-Corruption Policies and Mechanisms in Democratization, Rule of Law, and Transparency in Election Processes

### A. International Standards and the Role of Anti-Corruption Bodies in Election Processes

Preventive policies and mechanisms for combating corruption are essential for any democratic system aiming to establish a fair and just society grounded in the principles of equal opportunities, the rule of law, and good governance. In this regard, Articles 5 and 6 of the United Nations Convention Against Corruption (UNCAC)<sup>10</sup> underscore the obligation of State Parties to “*develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and*

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<sup>8</sup> Law of Georgia on Transparency of Foreign Influence No. 4194-XIV~~0~~~~3~~, Parliament of Georgia, May 28, 2024, at <https://matsne.gov.ge/en/document/view/6171895?publication=0>.

<sup>9</sup> “Georgia’s ‘transparency of foreign influence’ law incompatible with democratic standards and human rights law: international human rights office ODIHR,” Organization for Security and Co-operation in Europe (OSCE), May 30, 2024, at <https://www.osce.org/odihr/569925>; “Georgia: UN experts condemn adoption of Law on Transparency of Foreign Influence,” UN Office of the High Commissioner for Human Rights (OHCHR), May 15, 2024, at <https://www.ohchr.org/en/press-releases/2024/05/georgia-un-experts-condemn-adoption-law-transparency-foreign-influence>; “Georgia: Urgent Opinion on the Law on Transparency of Foreign Influence,” European Commission for Democracy Through Law (“Venice Commission”), May 21, 2024, at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2024\)013-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2024)013-e); “Georgia: Reintroduction of ‘foreign agents’ law threatens civic space and EU integration,” CSO Meter, April 11, 2024, at <https://csometer.info/updates/georgia-reintroduction-foreign-agents-law-threatens-civic-space-and-eu-integration>.

<sup>10</sup> See UN Convention Against Corruption (UNCAC), 2004, at [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf); see also [https://www.unodc.org/corruption/uploads/images/unccac-status-map/2022-10-10\\_UNCAC\\_Ratification.png](https://www.unodc.org/corruption/uploads/images/unccac-status-map/2022-10-10_UNCAC_Ratification.png).

*accountability.*<sup>11</sup> Furthermore, the UNCAC requires transparency in electoral campaigning.<sup>12</sup> As a State Party to the UNCAC, Georgia is obligated to establish anti-corruption policies and mechanisms in line with this Convention.

A number of States that are Parties of the UNCAC have established anti-corruption bodies that, among other duties, are responsible for registering voters and managing elections, registering parties, monitoring party finances, reviewing candidate eligibility and financial disclosures, administering campaign finance laws, and investigating any associated offences (hereinafter referred to as “anti-corruption bodies”).

While the electoral commissions or similar bodies are primarily responsible for direct election processes, anti-corruption bodies also play an important role in election processes. Their relevant competences may vary. While anti-corruption bodies primarily focus their work on broader corruption prevention issues and integrity systems, in some instances, however, their responsibilities include ensuring transparency in campaign financing, prevention of misuse of public resources, and ensuring the integrity of public office candidates. Such examples include the anti-corruption bodies in the EU member states, such as Latvia<sup>13</sup>, Slovenia<sup>14</sup>, Bulgaria<sup>15</sup>, Romania<sup>16</sup>, among others.

Anti-corruption policies and institutional practices should be established and implemented by taking into consideration other societal priorities and should respect the fundamental freedoms and rights of citizens in order to comply with the UNCAC. Therefore, considering that anti-corruption measures could impose restrictions on the civic space and the functioning of CSOs, the role and activities of an anti-corruption body should be assessed from both perspectives: the effectiveness of anti-corruption efforts, as well as the protection of the civic space, democracy, and the rule of law. Moreover, Article 13 of the UNCAC emphasizes the necessity for states and anti-corruption bodies to engage in close cooperation with various stakeholders in the fight against corruption. This includes fostering active collaboration with CSOs. CSOs should be recognized and treated as essential allies in anti-corruption efforts, as they play a critical role in monitoring, advocacy, and fostering transparency and accountability in public life. A necessary precondition for Article 13 implementation is that civil society actors enjoy the rights to the freedoms of association, assembly, and expression – the foundational elements of civic space.<sup>17</sup> The ability to form groups and associations, to meet and operate safely, independently and free from undue restrictions, is essential for civil society actors to play the role envisioned by the UNCAC. Article 13 implementation is contingent upon State Parties’ respect for and protection of their international human rights obligations. Reviews of

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<sup>11</sup> *Ibid.* Article 5.1 of the UNCAC.

<sup>12</sup> *Ibid.* Article 7.3 of the UNCAC. See also the interpretation in the Technical Guide to the UNCAC, at [https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395\\_Ebook.pdf](https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf) (page 17, Candidature for and election to public office criteria).

<sup>13</sup> “About us,” Corruption Prevention and Combating Bureau of Latvia, updated March 26, 2021, at <https://www.knab.gov.lv/en/about-us>.

<sup>14</sup> Article 66, Integrity and Prevention of Corruption Act, at <https://www.kpk-rs.si/storage/uploads/ebff0bca-a7d3-401f-b0a9-28aa1ff9c2bf/ZintPK-ENG.pdf>.

<sup>15</sup> “Anticorruption,” Commission on Protection of Competition of the Republic of Bulgaria, at <https://www.cpc.bg/en/anticorruption>.

<sup>16</sup> “Mission,” Anti-Corruption General Directorate of Romania, at <https://www.mai-dga.ro/eng/about-us/mission>.

<sup>17</sup> “ARTICLE 13 & CIVIC SPACE: Written submission to the 10th UNCAC CoSP,” Transparency International, November 27, 2023, at <https://www.transparency.org/en/publications/written-submission-uncac-cosp10-article-13-civic-space>.

the implementation of Article 13 must necessarily consider how State Parties implement these rights and whether civil society enjoys an enabling environment.<sup>18</sup>

In addition, the UNCAC, which should be seen as the fundamental international instrument for the protection of human rights, warrants continued attention from the relevant competent bodies.<sup>19</sup> A linkage between human rights and anti-corruption measures can also promote access to human rights mechanisms to combat corruption. According to Article 34 of the Convention, each State Party shall take measures to address the consequences of corruption. If a violation of human rights can be determined as a consequence of corruption, the State is obliged to ensure that appropriate measures are undertaken.<sup>20</sup>

## B. Civil Society's Role in Anti-Corruption and Election Monitoring

The UNCAC requires State Parties to involve and promote the participation of civil society and the public *“in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.”*<sup>21</sup> In this regard, civil society plays a vital role in combating corruption in all spheres of public life, including in electoral processes, and through implementation of a broad range of activities, including what may constitute as “political activities.”

Consistent with the UNCAC, in many European countries, CSOs empower citizens and inform voters about their rights, the dangers of corruption in elections, and on how to recognize and report fraudulent activities. Also, CSOs work with media outlets to disseminate accurate information about electoral processes and corruption issues, as well as advocate for legal protections for individuals who expose electoral malpractices. During the election process, CSOs play a vital role in ensuring reported incidents are investigated and responsible parties are held accountable. They also encourage grassroots participation in monitoring elections and in demanding accountability.

However, CSOs sometimes face challenges when monitoring elections. These include political pressure campaigns when governments attempt to suppress them through restrictive laws or practices, including by restricting access to funding that could limit their activities, or by intimidation or retaliation against activists and whistleblowers. As explained in an ECNL analysis<sup>22</sup>, anti-CSO rhetoric in election campaigns has led to the introduction of anti-CSO policies, restrictions of CSOs’ access to funding, proposals of bills on “foreign agents,” attempts to limit the role of CSOs in the prevention of corruption and human rights abuses, among other restrictions on civil rights and freedoms.

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<sup>18</sup> *Ibid.*

<sup>19</sup> “At the heart of the struggle: human rights defenders working against corruption: Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor” UN General Assembly, Human Rights Council, December 28, 2021, at <https://documents.un.org/doc/undoc/gen/g21/396/47/pdf/g2139647.pdf?OpenElement> (para 36).

<sup>20</sup> “Final report of the Human Rights Council Advisory Committee on the issue of the negative impact of corruption on the enjoyment of human rights,” UN General Assembly, Human Rights Council, January 5, 2015, at <http://undocs.org/en/A/HRC/28/73>.

<sup>21</sup> *Ibid.* Article 13.1 of the UNCAC.

<sup>22</sup> “Election Year 2024: Effects on Civic Space and an Opportunity to Protect Democracy,” ECNL, June 7, 2024, at <https://ecnl.org/news/election-year-2024-effects-civic-space-and-opportunity-protect-democracy>.

## 1. INTERNATIONAL STANDARDS THAT PROTECT CSOS' ENGAGEMENT IN "POLITICAL ACTIVITIES"

There is no universally accepted definition of "political activities" for the purposes of CSOs' engagement. The term "political activity" is subject to multiple interpretations and meanings. Depending on the context, "political activity" could be defined narrowly or broadly to include supporting or opposing candidates for public office, supporting particular political parties, lobbying for or against specific laws, pursuing interest-oriented litigation, or engaging in public affairs.<sup>23</sup> The general view is that:

*"the right to participate in public affairs cannot be considered in a vacuum. The effective exercise of this right requires an environment where all human rights, in particular, the rights to equality and non-discrimination, to freedom of opinion and expression and to freedom of peaceful assembly and of association, are fully respected and enjoyed by all individuals."*<sup>24</sup>

Usually, when regulating "political activities," most countries explicitly list what is considered "engagement in political activities." When defining such engagement, any restrictions must be clearly prescribed and narrowly defined.<sup>25</sup>

The following key documents protect CSOs' engagement in "political activities":

1. The *Council of Europe Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organizations in Europe* states that CSOs:

- (i) should be free to support a particular candidate or party in an election or a referendum provided that they are transparent in declaring their motivation, subject to legislation on the funding of elections and political parties;
- (ii) can undertake research, education and advocacy on issues of public debate, regardless of whether the position taken is in accord with government policy or requires a change in the law;
- (iii) as well as, pursue their objectives, provided that both the objectives and the means employed are consistent with the requirements of a democratic society.<sup>26</sup>

2. The joint OSCE ODIHR and Venice Commission "Guidelines on Freedom of Association" also state that associations shall have the right to participate in matters of political and public debate, regardless of whether the position taken is in accord with government policy or

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<sup>23</sup> "Political Activities of NGOs: International Law and Best Practices," The International Journal of Not-for-Profit Law, ICNL, Volume 12, Issue 1, November 2009, at <https://www.icnl.org/resources/research/ijnl/political-activities-of-ngos-international-law-and-best-practices>.

<sup>24</sup> "Guidelines for States on the effective implementation of the right to participate in public affairs," UN OHCHR, July 20, 2018, at [https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs\\_web.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf).

<sup>25</sup> Katerina Hadzi-Miceva Evans, "Regulating Political Activities of Non-Governmental Organisations," prepared on behalf of the Expert Council of NGO Law, updated December 2015, at <https://rm.coe.int/1680640fc2>.

<sup>26</sup> "Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organizations in Europe," Council of Europe, adopted October 10, 2007, at <https://rm.coe.int/recommendation-of-the-committee-of-ministers-to-member-states-on-the-l/1680a1f502>.

advocates a change in the law.<sup>27</sup>

3. The European Court of Human Rights addressed the capacity of citizens and CSOs to engage in public policy and political activities in several cases, based on Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The Court stated that allowing participation in public life and policy is in keeping with one of the principal features of a democracy — that is, to create the possibility for members of a society to resolve social and political problems through dialogue, without recourse to violence, “even when they are irksome.”<sup>28</sup> A State has some margin of appreciation in setting out conditions for the establishment and oversight of political parties and other associations participating in elections; however, other than that, the ECHR provides broad protection to non-governmental organizations’ (NGOs) “political activities.”<sup>29</sup> More importantly, the Court also stated that the fact that an NGO’s objectives might be seen as “political” should not necessitate it seeking the status of a political party where this is separately provided for under a country’s law. In the case of *Zhechev v. Bulgaria*, where an association with objectives deemed “political” was precluded from acquiring legal personality other than as a political party, the Court noted that the mere fact that an organization demands political changes or that its activities are otherwise deemed “political” does not per se justify interference with its freedom of association, including a request that the organization be registered as a political party, in order to participate in political life.<sup>30</sup>

In EU Member States, in general, CSOs’ traditional work is not considered as a “political activity.” In almost all countries, CSOs generally have the right to criticize or endorse state officials and candidates for political office.<sup>31</sup> In many instances, CSOs are also allowed, for example, to finance campaigns/candidates (as seen in Romania<sup>32</sup>), to participate in electoral campaigns (e.g., in Croatia and Portugal), and to participate in electoral campaigns through special elective committees (as seen in Poland<sup>33</sup>).

### III. The Status of the Georgian ACB and CSOs’ Engagement in Political Activities, including Monitoring the Election Process

#### A. The Role of the Georgian ACB

The Law of Georgia on the Fight against Corruption<sup>34</sup> outlines a comprehensive framework for combating corruption through the establishment of an independent ACB. The ACB, as prescribed in Article 20<sup>12</sup> of the above-mentioned law, operates autonomously and is

<sup>27</sup> “Guidelines on Freedom of Association,” OSCE ODIHR and Venice Commission, January 1, 2015, at <https://www.osce.org/odihr/132371>.

<sup>28</sup> *Id.* Hadzi-Miceva Evans, “Regulating Political Activities of Non-Governmental Organisations,” 2015, at <https://rm.coe.int/1680640fc2>. See Case United Communist Part of Turkey and Others v. Turkey, no 19392/92, 30 January 1998, paras 57-58.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Law of Georgia No. 982, “on the Fight against Corruption,” Parliament of Georgia, October 17, 1997, at <https://matsne.gov.ge/en/document/view/33550?publication=88>.

accountable only to the Georgian Parliament. Its mandate aligns closely with the principles outlined in the UNCAC, to which Georgia is a signatory country, and ensures adherence to international standards for anti-corruption bodies. The ACB's functions are grounded in fundamental principles, including respect for human rights, independence, objectivity, impartiality, political neutrality, professionalism, transparency, and confidentiality, as emphasized in Article 20/14 of the Law. These principles serve as the foundation for its operations and should ensure accountability and public trust.

Amongst other authorities, the ACB *“oversees the financial activities of citizens’ political associations (political parties), electoral subjects and persons with a declared electoral purpose and implements other appropriate activities related to this area.”*<sup>35</sup> This function usually includes monitoring compliance with financial regulations and ensuring transparency in political financing, thereby mitigating the risk of corruption within electoral processes.

## B. Georgian Legislation on CSOs’ Engagement in Political Activities

Georgian law guarantees the freedom of association and CSOs’ participation in the decision-making process. According to constitutional principles, the people are the ultimate source of state authority, exercising their power through elected representatives, referendums, and other forms of direct democracy, as stipulated in Article 3(2) of the Constitution. Furthermore, Article 34 of the Constitution affirms that the fundamental guarantees of human rights enshrined within it also extend to legal entities. Additionally, Article 25(2) of the Civil Code recognizes the right of all legal (non-commercial) entities to engage in any lawful activity, irrespective of whether such activity is explicitly outlined in their articles of association. This fosters flexibility and allows CSOs to adapt to changing circumstances and pursue diverse initiatives that align with their mission and are related to the needs of society.

However, in 2024, the Georgian Parliament adopted the controversial Law on Transparency of Foreign Influence<sup>36</sup>, which introduced burdensome reporting requirements on CSOs and independent media receiving foreign funding, potentially restricting their access to resources and undermining their ability to fulfil their missions, in violation of the international law protecting freedom of association.

In continuation of the Georgian government’s initiative to restrict CSOs through the above-mentioned law, the ACB unduly suppressed two CSOs that are among the most vocal and pro-EU organizations in Georgia. Namely, the ACB declared two CSOs (“Choose Europe” and “TIG”<sup>37</sup>) and individuals in their leadership as “persons with a declared electoral goal and use the related financial and other material resources to achieve that goal.”<sup>38</sup> Being a “person

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<sup>35</sup> Article 20(15), 1-h from the Law of Georgia on Conflict of Interest and Corruption in Public Service.

<sup>36</sup> “Georgia: What Does the Implementing Regulation of the Law on Transparency of Foreign Influence Bring?” ECNL, September 2, 2024, at <https://ecnl.org/news/georgia-what-does-implementing-regulation-law-transparency-foreign-influence-bring>.

<sup>37</sup> The TIG conducted various activities focused on promoting transparency and integrity in the electoral process. They released reports analyzing the political and electoral environment, highlighting issues such as campaign financing and potential corruption risks. TIG also organized public discussions and forums to raise awareness about the importance of free and fair elections, and they monitored the conduct of political parties and candidates to ensure compliance with electoral regulations. TIG advocated for EU membership.

<sup>38</sup> Article 7(1) of the Law on Political Associations of Citizens.

with a declared electoral goal” also means that the subject needs to respect all obligations relevant to political parties. An organization with the status of a “person with a declared electoral goal” cannot be registered as an observer of elections, can be restricted from monitoring the entire electoral campaign, cannot be involved in the voter educational process, among other restrictions.<sup>39</sup>

The ACB’s designation of these CSOs and their leaders as “persons with a declared electoral goal” is unfounded. Neither these CSOs nor their leaders declared an intention to come to power through participation in elections. The ACB never presented evidence or directly argued that these organizations declared their electoral goal or used the related financial and other material resources to achieve that goal. The arguments provided by the ACB, whether substantiated or not, are not sufficient to qualify “Choose Europe” and “TIG” as “persons with a declared electoral goal.” Moreover, the ACB, through its unilateral decision, and without prior notice or any opportunity for the CSOs or their leaders to provide clarification, effectively reclassified the legal status of two CSOs as similar to political parties. This action undermines the legal protections afforded to CSOs under Article 22 of the Georgian Constitution and violates many international standards and principles by eroding the autonomy of civil society.<sup>40</sup>

Although the decisions of the ACB to designate “Choose Europe” and “TIG” as “persons with a declared electoral goal” have been repealed as a result of the Prime Minister’s statement<sup>41</sup>, CSOs are concerned that similar decisions can be made against other CSOs in the future, thereby restricting their activities. Such restrictions would include:

- **Limitation on CSOs’ participation in the electoral process:** The designation as a “person with a declared electoral goal” deprives CSOs of legitimate rights to be observers of elections, to monitor electoral campaigns, to be involved in the voter educational process, etc.<sup>42</sup>
- **Restricted access to funds:** Based on Article 26 of Georgia’s Law on Political Associations of Citizens, a CSO designated as a “person with a declared electoral goal” is prohibited, similar to a political party, from receiving and using funds (e.g., donations and foreign grants) from both local and foreign organizations or persons.<sup>43</sup> In the case of receiving prohibited funds, such CSOs must return the funds to the donor within five days; otherwise, the funds will be transferred to the state budget.<sup>44</sup> In other words, CSOs declared as a “person with a declared electoral goal” are no

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<sup>39</sup> Organic Law of Georgia No. 5636-**რს** ‘Election Code of Georgia’, Parliament of Georgia, December 27, 2011, at <https://matsne.gov.ge/en/document/view/1557168?publication=90>.

<sup>40</sup> According to Article 22 of the Constitution: “The freedom of association shall be guaranteed. An association may be dissolved only by its own or a court decision in cases defined by law and in accordance with the established procedure.”

<sup>41</sup> Full Statement of the Prime Minister of Georgia, Official Facebook page of the Government of Georgia, October 1, 2024, at <https://www.facebook.com/share/p/YDDbEyRgdaPiGEcn/>.

<sup>42</sup> Article 39.4(1)a) of Organic Law of Georgia No. 5636-**რს** ‘Election Code of Georgia’, Parliament of Georgia, December 27, 2011, at <https://matsne.gov.ge/en/document/view/1557168?publication=90>.

<sup>43</sup> According to Article 26 of the Law on Political Associations of Citizens, political parties, as well as “persons with a declared electoral goal,” are prohibited from receiving and using donations, including from a legal person and/or another type of association of persons registered in Georgia or outside Georgia, except for free organization of a lecture, workshop or another similar public event; from a public institution; anonymously; etc.

<sup>44</sup> Article 27(1) of Georgia’s Law on Political Associations of Citizens.



longer able to receive from foreign organizations or donors the financial funds necessary for maintaining their operations and activities. According to Article 25 of Georgia’s Law on Political Associations of Citizens, all of the CSO’s property (which consists of membership fees, donations, and, in cases established by law, funds allocated by the state) will be considered the property of a “political party.”<sup>45</sup>

- **Limitation of CSOs’ activities:** A “person with a declared electoral goal,” similar to a political party, is prohibited from directly or indirectly transferring money, gifts, and other tangible or intangible values to Georgian citizens, as well as the “*sale or supply of goods or services at a favorable condition, purchase of goods or services at a price higher than the market price, supply or distribution of goods or services free of charge (except for the exceptions provided by this law)...*”<sup>46</sup> Therefore, CSOs designated as a “person with a declared electoral goal” will be prohibited from serving their beneficiaries, in violation of international law guaranteeing freedom of association.
- **Additional financial reporting obligations:**
  - **Notification:** CSOs designated as a “person with a declared electoral goal” are required to provide information regarding the receipt of donations to the ACB within five working days.<sup>47</sup>
  - **Financial Declarations:** A CSO with the status of a “person with a declared electoral goal” is required to submit a financial declaration, along with an audit report, to the ACB. The financial declaration must contain information about revenues and expenditures, posing a burdensome requirement for CSOs.
- **Penalties and fines:** If the ACB determines that an organization does not proactively align its actions with the requirements of the Law on Political Associations of Citizens before being declared a “person with a declared electoral goal” by the ACB, it may be subject to a fine of 5,000 GEL (or 1,650 Euro). The ACB has the right impose a fine, without waiting for the court’s decision, and, in parallel with the preparation of the report on the administrative offense, to impose a seizure on the property (including bank accounts) of the person against whom the report is drawn up, proportionate to the sanctions provided for the offense. The seizure will take effect immediately. Challenging the decision on the seizure does not suspend its implementation.

Such restrictions on the activities of CSOs would contradict both international law and Georgian law and can cause a CSO to cease its activities.

## IV. Conclusion

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<sup>45</sup> This means that any income or benefit received by a CSO declared a “person with a declared electoral goal,” as well as any expenses incurred or material or immaterial value or service, provided free of charge by the organization to support any political party, and any monetary amount, material or immaterial value, or service provided free of charge or in any other form by third parties to support the CSO, shall be considered a donation.

<sup>46</sup> Article 25<sup>2</sup> of Georgia’s Law on Political Associations of Citizens.

<sup>47</sup> Article 27(1) of Georgia’s Law on Political Associations of Citizens.

The future work of the ACB and the watchdog organizations monitoring the activities of the ACB must ensure that the ACB's decisions are in full compliance with international law and good practices, as well as with Georgian law.

**Any law or administrative act restricting the activities of CSOs, such as decisions of the ACB, must take into consideration the government's responsibility to guarantee and actively protect human rights.** International standards and obligations (such as the UNCAC, for example) mandate that in designing anti-corruption and anti-money laundering policies, states and governments must safeguard the civic space and protect the operational environment for CSOs and ensure their independence and ability to function effectively.

The **implementation of anti-corruption regulations shall not infringe upon the rights and adversely affect the activities of CSOs, their employees, or donors.** Examples of such violations include high and disproportionate penalties, burdensome reporting requirements, among others. The ACB should ensure that CSOs can participate in monitoring elections, conducting voter education campaigns, and advocating for democratic governance without fear of reprisal or legal repercussions. The protection of human rights and the preservation of an open civic space is equally important to the implementation of anti-corruption policies aimed at ensuring transparency and accountability.

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