



REPRESSIVE LAW
AND STIGMATIZATION OF THE CIVIL
SOCIETY ORGANIZATIONS

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INTRODUCTION

The repressive law adopted in Georgia, which mirrors the Russian Law, will persecutes and stigmatizes civil society organizations like it happened in Russia and in Belarus. The facts of assaults and smear campaigns against the civil society organizations before and after the law was adopted illustrate its real aim. The process at large contradicts the pro-western course and democratic development of the country, which was clearly outlined by the representatives of the European Union, UN, NATO, OSCE, the USA and other international partners.

The below document will assess the groundless stigmatization of the civil society and summarizes the risks related with the adoption of the repressive Law on the Transparency of Foreign Influence.

The document reviews the impact coming from the years-long attack on the work and reputation of the civil society. Particular focus is on: the problems related with labeling the CSOs in accordance with the repressive law; real goals of and unlawful restrictions envisaged in the Law on the Transparency of Foreign Influence.

Additionally, the document sums up the significant issues based on the analysis of international and national legislation, the opinion of the Venice Commission, the case law of the European Court of Human Rights and the Court of Justice of the European Union.

STIGMATIZATION OF THE CIVIL SOCIETY

The right to freedom of association is a cornerstone of a vibrant, pluralistic and participatory democracy and underpins the exercise of a broad range of other civil and political rights¹. Civil society organizations are composed of citizens, who were unified to achieve some goals and play significant role in the democratic societies.²

Across the world, CSOs are recognized as the organizations promoting human rights, humanitarian aid, environment protection and many other fields in their respective countries.³ On daily basis, the CSOs working in Georgia work hard to contribute to the poverty reduction, peacebuilding, promotion of the rule of law, fight against violence and other issues which are critically important for the democratic development of the state and protection of human rights.

Georgian CSOs pay particular attention to the rights of children, women, people with disabilities, IDPs, elderly people and minorities. Often, citizens victimized by the system, who

¹ ODIHR and Venice Commission, CDL-AD(2023)016, Joint Opinion of the Venice Commission and the OSCE/ODIHR on the draft law of Republika Srpska on the Special Registry and Publicity of the Work of Non-Profit Organizations, Para. 16. see [link](#)

² CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para 58,65, 69; see: [link](#)

³ Tamar Koberidze; University reading materials for the students: Role of the Civil Society, p. 30, see: [link](#)

stay alone in front of the crimes committed by the members of the government, are supported only by human rights organizations, as they get free legal and psychological aid.

Regardless the abovementioned wide range of activities of the civil society organizations, in Georgia, for years, high-ranking governmental officials tried to discredit CSOs, media organizations and human rights defenders. In 2023, posters appeared in Tbilisi, where the members of the CSOs were called enemies of the Orthodox Church.⁴ Also, there was an attempt to evaluate the work of the civil society as anti-state activities, whose goal was to discredit the church and to conduct propaganda in support of the LGBT+ community, to contribute to the return of the United National Movement in power, to organize provocations, etc.⁵ Such propaganda and years-long smear campaign encouraged the mistrust towards the civil society in one part of the population. On November 7, 2023, the UN Special Rapporteur recommended the Government of Georgia it was important to create better conditions for the human rights defenders and to make their empowerment a key priority.⁶

REPRESSIVE LEGISLATION

According to the assessment of the civil society organizations, for having disclosed hundreds of cases of violence, corruption, unlawful actions and selective justice, in 2023 the bills on the transparency of foreign influence and on the registration of foreign agents were registered in the Parliament of Georgia. The bills aimed to punish the CSOs and media organizations for their critical reporting.⁷ In accordance with the legislative initiative, those civil and media organizations were to get registered in the database of the “foreign influence agents”, who received part of their annual funding from abroad.⁸ After large-scaled protest demonstrations and public criticism, the Parliament of Georgia dropped one of the bills at the second hearing and withdrew the second one.⁹

Nevertheless, on April 3, 2024, the Georgian Dream re-introduced the Law on the Transparency of Foreign Influence with a minor amendment in it – instead of the term “foreign influence agents” they used term “organization pursuing the interests of foreign power.”¹⁰ Regardless the unprecedented and permanent protest of the society, on May 14, the parliamentary majority

⁴ United Nations Special Rapporteur on the situation of human rights defenders, Mary Lawlor; Preliminary observations and recommendations; Tbilisi - 7 November 2023; (last seen: 25.12.2023); See: [link](#)

⁵ Interpresnews; Irakli Kobakhidze – this bill already achieved its goal: everybody admitted that being an agent is shameful, people learned about those organizations, which are engaged in anti-state activities and it proved that the Bakuriani Plan will never be realized; 10.03.2023; see: [link](#)

⁶ United Nations Special Rapporteur on the situation of human rights defenders, Mary Lawlor; Preliminary observations and recommendations; Tbilisi - 7 November 2023; (last seen: 25.12.2023); see: [link](#)

⁷ Joint statement of the CSOs: Russian law is not the will of Georgia; 21.02.2023 (last seen: 20.10.2023) see: [link](#)

⁸ Radio Liberty – Parliament of Georgia passed the Bill on the Transparency of Foreign Influence at first hearing; 07.03.2023; see: [link](#)

⁹ Interpresnews – the Parliament dropped the bill on the Transparency of Foreign Influence at the second hearing, 10.03.2023 (last seen: 18.12.2023); see: [link](#)

¹⁰ Civil.ge; Georgian Dream Re-Introduces the Draft Law on Foreign Agents; 03.04.2024; see, [link](#)

passed the law in a haste without substantial consultations,¹¹ and overrode the President's veto on May 28.¹² In response to that, the representatives of the civil society organizations published a statement: "We'll go on with our deed – we'll help people and each other and won't obey the "Russian law"! We won't leave a single person without help, we'll protect all those detained and those brought to administrative responsibility. Our lawyers will defend their rights both within the country and in international courts. We'll accumulate funds to pay fines of each other that were imposed on us because of our devotion to our country and the fight for freedom."¹³

Pursuant to the Constitution of Georgia, the constitutional bodies shall take all measures within the scope of their competences to ensure the full integration of Georgia into the European Union and the North Atlantic Treaty Organization.¹⁴ The legislation of Georgia shall comply with the universally recognized principles and norms of the international law. 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.¹⁵ Among other international agreements, Georgia has ratified the European Convention on Human Rights and the International Covenant on Civil and Political Rights, which guarantee the rights of the CSO members. These rights are protected under the Constitution of Georgia too, namely: freedom of assembly is guaranteed;¹⁶ all persons are equal before the law and discrimination is forbidden;¹⁷ personal and family life shall be inviolable. This right may be restricted only in accordance with law for ensuring national security or public safety, or for protecting the rights of others, insofar as is necessary in a democratic society;¹⁸ freedom of opinion and the expression of opinion is protected. No one shall be persecuted because of his/her opinion or for expressing his/her opinion.¹⁹ The Law on the Transparency of Foreign Influence contradicts the above-listed articles of the Constitution of Georgia, and of the international treaties signed by Georgia, like the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

The urgent opinion of the Venice Commission, which was published on May 21, 2024, states that the Law of Georgia on the Transparency of Foreign Influence does not meet the requirements of legality, legitimacy, necessity and proportionality.²⁰ The law violates the following rights guaranteed by the European Convention on Human Rights and the

¹¹ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; para. 7-17; see. [link](#); Interpresnews; The Parliament finally passed the Law on the Transparency of Foreign Influence; 14.05.2024; see. [link](#)

¹² Interpresnews; the Parliament overrode the President's Veto on the Law on the Transparency of Foreign Influence; 28.05.2024; see [link](#)

¹³ Statement of the CSOs; "We will not obey the Russian law!" 29.05.2024, see [link](#):

¹⁴ Constitution of Georgia, Article 78

¹⁵ Constitution of Georgia, Article 4 (5)

¹⁶ Constitution of Georgia, Article 21

¹⁷ Constitution of Georgia, Article 11

¹⁸ Constitution of Georgia, Article 15

¹⁹ Constitution of Georgia, Article 17

²⁰ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 52-90

International Covenant on Civil and Political Rights,²¹ like: freedom of assembly,²² right to be protected from discrimination;²³ freedom of expression²⁴ and right to inviolability of personal life.²⁵

Additionally, the Venice Commission clarified why the Georgian Law on the Transparency of Foreign Influence is different from the laws acting in Israel²⁶, the USA²⁷ and Australia.²⁸ Unlike that, in accordance with the Venice Commission, the Georgian law has many similarities with the laws, which was assessed as the agents' law, and were adopted in Russia, Hungary and Kirgizstan. (Adoption of similar law was considered in Respublika Sprska, in Bosnia-Herzegovina).²⁹ Additionally, the European Court on Human Rights examined the Russian law; the Court of Justice of the European Union examined the Law of Hungary. In this light, for Georgia, which is striving for the EU-integration and is a member of the Council of Europe, it should be important to meet the standards determined by the international courts.

In 2022, the European Court of Human Rights passed judgment on the application of the Russian civil society organizations, where the applicants sued the foreign agents' law, which obliged the CSOs to get registered as foreign agents and expect inspection from the Ministry of Justice at least once a year. The ECtHR held violation of the Article 11 (freedom of assembly and association) interpreted in the light of Article 10 (freedom of expression) of the European Convention on Human Rights.³⁰

Also, in 2020, the Court of Justice of the European Union ruled that Hungary introduced discriminatory and unjustified restrictions with regard to foreign funding based on the law, which obliged the civil society organizations to get registered, make declarations and reports. In accordance with the clarification of the CJEU, the Hungarian law on transparency caused several problems: first of all, it jeopardized freedom of assembly because realization of this right means possibility to enjoy it without unjustified interference from the side of the state. Secondly, labeling the CSOs resulted in their stigmatization and the sanctions envisaged by the law created threats to the existence of these organizations. The law also harmed the capacity of associations to receive financial resources that is essential to the operation of associations. Therefore, the European Court of Justice held that Hungary violated Article 7 (respect to personal and family life), Article 8 (protection of personal data) and Article 12 (freedom of assembly and association) of the European Covenant on Basic Rights.³¹

²¹ Ibid, Para 50, see: [link](#)

²² European Convention on Human Rights, Article 11; International Covenant on Civil and Political Rights, Article 22

²³ European Convention on Human Rights, Article 14; International Covenant on Civil and Political Rights, Article 26

²⁴ European Convention on Human Rights, Article 10; International Covenant on Civil and Political Rights, Article 19

²⁵ European Convention on Human Rights, Article 8; International Covenant on Civil and Political Rights, Article 17

²⁶ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LA (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 39, 41, 42

²⁷ Ibid, Para. 40, 41

²⁸ Ibid, Para. 39, 42

²⁹ Ibid, 38

³⁰ Ecodefence and Others v. Russia, nos. 9988/13 and 60 others, §187; 14 June 2022; See: [link](#)

³¹ CJEU; C-78/18- Commission v Hungary (Transparency of associations), Para 106, see [link](#)

Stigma – “Organization Pursuing the Interests of Foreign Power”

The Law on the Transparency of Foreign Influence obliges the civil society organizations to get registered as an organization pursuing the interests of foreign power.³² Replacement the term “foreign influence agent” with the term “organization pursuing the interests of foreign power” does not change negative context of this provision. Just the opposite, it can be said that pursuing the interests of foreign power is definition of the term “agent”.

In Georgian reality, terms “agent” or “organization pursuing the interests of foreign influence” became even more insulting for the civil society organizations because of the statements made by high-ranking government officials. For example, the chairman of the ruling party stated in relation with the turbulence and protests against the Russian law: “For me, pursuing the interests of foreign state is a betrayal of my state interests. It does not make difference which country agent you are – Russia, the USA, Africa or Asia. Agent is an agent. The activities of an agent is punishable, it is high treason... is not it a disaster? If a person commits to it, he is already lost. How can a citizen of Georgia think to pursue the interests of other country?”³³ Thus, it can be said that based on the foreign agents’ law, civil society organizations, regardless their deeds to the country, are obliged to get registered in the database of traitors.

The term “agent”, in its generally accepted meaning, designates a person or an entity which carries out certain work or tasks on the orders or instructions of another individual or entity (the “principal”) in return for remuneration in the framework of the principal-agent relationship. Adding the adjective “foreign” implies that the principal is a foreign entity on behalf of which the agent is acting.³⁴ **Similar approach misinterprets the role of a donor and excludes the possibilities when the grantee maintains full management and functional independence, among others, in relation with the questions like elaboration of programs, strategies and priorities.** Furthermore, declaring the organization to be a foreign agent is irrebutable because any evidence of operational independence of the grantee from the donor was legally irrelevant for the designation of the targeted organization as a “foreign agent”, as the mere fact of receiving any amount of money from “foreign sources” sufficed.³⁵ The European Court of Human Rights considered therefore that attaching the label of “foreign agent” to any applicant organizations, which received funds from foreign entities, was unjustified and prejudicial and also liable to have a strong deterrent and stigmatizing effect on their operations. That label colored them as being under foreign control.³⁶ Also, in accordance with the Court of Justice of the European Union, perceiving the civil society organizations as recipients of funding from foreign countries creates general mistrust and contributes to the stigmatization of such organizations.³⁷ Furthermore, as

³² Georgian Law on the Transparency of Foreign Influence, Article 4

³³ TV Imedi; “Irakli Garibashvili: We must continue dialogue with partners, American and European friends...” see. [link](#);
Interpresnews: Irakli Garibashvili - ... For me, pursuing the interests of foreign country is a state treason; 11.05.2024; see [link](#)

³⁴ Ecodefence and Others v. Russia, nos. 9988/13 and 60 others, 133; 14 June 2022; see [link](#)

³⁵ Ecodefence and Others v. Russia, nos. 9988/13 and 60 others, 134; 14 June 2022; see [link](#)

³⁶ Ecodefence and Others v. Russia, nos. 9988/13 and 60 others, 136; 14 June 2022; see [link](#)

³⁷ CJEU; C-78/18- Commission v Hungary (Transparency of associations), Para 118, see [link](#)

the CJEU clarified, those differences in treatment depending on the national or ‘foreign’ origin of the financial support in question, constitute indirect discrimination on the basis of nationality.³⁸

The law, which uses such vague terms like: “foreign power,” “pursuing interests of foreign power” and others, cannot meet the standards of lawfulness as it was outlined in the urgent opinion of the Venice Commission. For legal purposes, the norms shall be sufficiently clear, precise and foreseeable, whilst as a result of the combination of these broad and vague terms, the category of entities qualifying as “organizations pursuing a foreign interest” is potentially very large and undetermined. Moreover, the income may come from a so-called foreign power regardless of whether the latter passes it to the entity directly or through some intermediary; as a result, it may be difficult for many entities to know whether they qualify as “organizations pursuing a foreign interest.”³⁹

Civil society organizations are so-called Watchdogs and diversity of their financing sources guarantees their independence in the democratic society, while the law offers unforeseeable and vague interpretation and declares organizations to be implementers of the interests of foreign powers, to avoid this label, the organizations shall stop getting foreign funding. Hence, the organizations are deprived of the right to choose between domestic and foreign funding that undermines independence of the organizations.⁴⁰

Repressive Mechanisms Envisaged in the Law

The Georgian Law on the Transparency of Foreign Influence stipulates that in order to identify an organization pursuing the interest of a foreign power or verify compliance with any of the requirements of this Law, a person authorized by the Ministry of Justice of Georgia shall be authorized to conduct an appropriate examination and study of the issue at any time. The basis for starting monitoring shall be: the decision of a person authorized by the Ministry of Justice of Georgia, or by a written application submitted to the Ministry of Justice of Georgia containing a relevant information relating to a specific organization pursuing the interest of a foreign power.⁴¹ As the law does not clarify the “relevant information”, the basis of launching monitoring may be any, among others unjustified information, in fact – denouncing.

If the organization will not register in the database of the organizations pursuing the interests of foreign power and the monitoring reveal that more than 20% of their annual income comes from the foreign sources, high penalties will be imposed on the organization – initially 25 000 GEL and then 10 000 and 20 000 GEL.⁴² The purpose of the monitoring is to identify the organization pursuing the interests of foreign power or to examine how the organization meets the

³⁸ CJEU; C-78/18- Commission v Hungary (Transparency of associations), Para 62, see [link](#)

³⁹ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 52-54, 58; see [link](#)

⁴⁰ Ecodefence and Others v. Russia, nos. 9988/13 and 60 others, § 168, 169; 14 June 2022; see [link](#)

⁴¹ Georgian Law on the Transparency of Foreign Influence, Article 8

⁴² Ibid, Article 8; 9

requirements of this law,⁴³ which means when **the organization is registered in the database and will get a status of the “organization pursuing the interests of foreign power,” it may become subject of monitoring and receive fines because the Ministry of Justice is authorized to start monitoring to check the submitted declaration and request personal data, not-providing of which shall be fined.** The same approach is on place if, for example, some shortcomings are identified in the submitted application or when shortcomings are not addressed.⁴⁴

Granting unrestricted power to the Ministry of Justice is a serious problem because in order to carry out monitoring, a person authorized by the Ministry of Justice of Georgia shall have the right to request, “the necessary” information, (except for state secret provided for in the legislation of Georgia). Every person, body, organization, entity, which is requested to provide this information by the person designated by the Ministry of Justice of Georgia, is obliged to immediately provide the information at its/her/his disposal.⁴⁵ This lists cover any information, which is related with identified or unidentified physical person,⁴⁶ among them data of special category is connected to a person’s racial or ethnic affiliation, political views, religious, philosophical or other beliefs, membership of professional organizations, state of health, sexual life, conviction, acquittal or a recognition as a victim of a crime, imprisonment and execution of punishment against a person in accordance with the Law of Georgia on the Elimination of Violence against Women or/and Domestic Violence, as well as biometric and genetic data, which are processed for unique identification of a physical person.⁴⁷

Any physical person, entity, organization and institution is obliged to provide the above-listed personal data, when the authorized representative of the Ministry of Justice requests it.⁴⁸ So, there is no restriction and any physical person, among them employees of various organizations, lawyers and beneficiaries, may be requested to provide the personal data. The same refers to the international funds accredited in Georgia, representations of the international organizations and their employees. It is worth to mention that imposing obligation on a lawyer to provide personal information contradicts the Law of Georgia on Lawyers, which states that a lawyer is responsible to protect professional secrecy and shall not disclose the information obtained in the course of advocacy activities.⁴⁹

Monitoring of the same entity shall be allowed only once every 6 months,⁵⁰ but if the physical person will not provide the representative of the Ministry with the requested information, he/she will be fined with 5 000 GEL⁵¹ in unidentified frequency because the law does not limit

⁴³ Ibid, Article 8 (1)

⁴⁴ Institute for the Development of Freedom of Information, Repressive Effects of the Russian Law; 20.05.2024; see [link](#)

⁴⁵ Georgian Law on the Transparency of Foreign Influence, Article 8 (3)

⁴⁶ Law of Georgia on Personal Data Protection, Article 3 (a)

⁴⁷ Ibid, Article 3 (b)

⁴⁸ Georgian Law on the Transparency of Foreign Influence, Article 8 (3)

⁴⁹ Law of Georgia on Lawyers, Article 7 (1)

⁵⁰ Georgian Law on the Transparency of Foreign Influence, Article 8 (5)

⁵¹ Ibid, Article 9 (4)

frequency of requesting an entity or physical person to provide the information because of the monitoring carried out in the organization.

In the light of all abovementioned, in accordance with the law, all physical or legal persons may become subjects of two main repressive mechanisms: 1. Monitoring may be launched in any organization regardless the fact it gets part of funding from abroad or not, because the basis of monitoring is to identify similar organizations. 2. For the purpose of monitoring, all physical persons, entities, organizations and institutions, which will be requested by the representative of the Ministry of Justice to provide information (among them personal data), is obliged to immediately disclose the information they possess.⁵²

The Venice Commission clarified that in accordance with the principle of lawfulness, the law shall not leave excessive discretion and authority of selfish regulation to the Government. Nevertheless, the Law on the Transparency of Foreign Influence leaves large discretion to the Ministry of Justice in the interpretation and application of the regulation. The Ministry may perform “relevant examination and investigation,” also “the authorized representative of the Ministry of Justice will makes “respective decision,” that means the Ministry is granted the power without any clear and impartial standards. Furthermore, there is no justification whatsoever for requiring personal data and secret information to the authorized representative of the Ministry of Justice, among them information about sexual life. This concept is vague and undetermined, with no link being established between such information and the aim of the law.⁵³

“Transparency” and Silencing Critical Voice

Due to the analysis of repressive mechanisms envisaged in the Law, it is not difficult to guess that it is deceitful when the Government of Georgia says the “transparency” is a legitimate goal of the law.

The Government clarifies that some entities/organizations acted against the interests of the State and disseminated disinformation under the influence of foreign state that harms the democracy. In relation to that, the Venice Commission noted in its conclusion that it is unjustified to evaluate the criticism of the government as disinformation; just the opposite –freedom of expression is a cornerstone of democracy; in a democratic society, and it must be protected, supported and promoted irrespective of whether it is critical of the government. Hence, it is not justified to illustrate the attempt of silencing critical opinions of the civil society and media as a protection of democracy.⁵⁴

Additionally, the OSCE underlined in its opinion that, enhancing transparency does not by itself constitute a legitimate aim. It can be an instrument to achieve only legitimate aim. For example, legitimate aim may be prevention of crimes such as corruption, embezzlement, money-

⁵² Institute for Development of Freedom of Information, Repressive Effects of the Russian Law; 20.05.2024 see [link](#)

⁵³ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 52,55-58; see [link](#)

⁵⁴ Ibid, Para. 59, 65, see [link](#)

laundering or terrorism financing. However, even in similar circumstances, it is inadmissible to restrict civil society and human rights organizations without analysis and justification of risks-claiming that the members of the civil society are involved in criminal activities. Thus, it is inadmissible to justify the restriction of rights based on abstract grounds.⁵⁵

The Venice Commission admits that protection the interests of the national security and public safety might fall under the legitimate aims of the law to prevent political influence of foreign countries and exploitation of the NGO sector. However, the automatic presumption that any foreign funding, though limited and dispersed, equals foreign influence seems hard to sustain and is of itself insufficient to justify restrictive measures imposed on civil society organizations, online media and broadcasters.⁵⁶ It is noteworthy that similar situation was in Hungary too, where the State failed to justify the presence of real, prompt and serious threat to the state security whose elimination was the aim of the law. Hungary failed to prove in the Court that the law guaranteed effective fight against money laundering, terrorism or other crimes.⁵⁷ Therefore, the decision of the CJEU and enforcement of the judgment by the European Commission compelled Hungary to annul the law.

Generally speaking, enhancing transparency and accountability is an essential component of good public governance applicable to the public sector but not to private associations, whose transparency shall be promoted but not demanded by the State.⁵⁸

In the contrary to that, in Georgia, the non-commercial non-profit legal entity established by the administrative body will not have obligation to get registered in the database of the "organizations pursuing the influence of foreign power."⁵⁹ The Law unequally treats civil society organizations and other entities, among them business sector. It additionally complicates to find the justification for similar restriction for the civil sector. Consequently, it is unclear for the Venice Commission what has made the Georgian authorities conclude that certain types of entities are more likely to pursue the interests of foreign powers.⁶⁰

In the context of transparency, registration of civil society and media organizations, as well as financial reporting process is already regulated by the Georgian legislation. However, no convincing explanation has been given on why the existing obligations would be insufficient for

⁵⁵ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Note of the Legislative Initiatives on Transparency and Regulation of Associations Funded from Abroad of So-called "Foreign Agents Laws" and Similar Legislation and Their Compliance with International Human Rights Standards, July 25, 2023, Para. 54, 56 see [link](#)

⁵⁶ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LA (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 63, 64; see [link](#)

⁵⁷ CJEU; C-78/18- Commission v Hungary (Transparency of associations), Para 58, see. [link](#)

⁵⁸ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Note of the Legislative Initiatives on Transparency and Regulation of Associations Funded from Abroad of So-called "Foreign Agents Laws" and Similar Legislation and Their Compliance with International Human Rights Standards, July 25, 2023, Para. 53, 54, see [link](#)

⁵⁹ Georgian Law on the Transparency of Foreign Influence, Article 2 (1) (a)

⁶⁰ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LA (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 91, 92; see [link](#)

the purpose of ensuring transparency. Or why instead adopting the new law, introduction of respective amendments to the existing legislation was not considered.⁶¹

Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism envisages obligation to report to the Financial Monitoring Service of Georgia about the regulation of non-financial activities and suspicious deals or plotting, making or attempted implementation of such deals.⁶² Law of Georgia about Lobbying determines rules on monthly reporting for a lobbyist.⁶³

Furthermore, the Criminal Code of Georgia envisages criminal liability for assisting foreign country, foreign organization or an organization under the control of foreign country, intended to undermine the state interests of Georgia.⁶⁴ The Criminal Code of Georgia also envisages punishment for espionage⁶⁵, sabotage⁶⁶ and others.

Whilst the issues related with financial reporting and commission of concrete crimes were already envisaged in the Georgian legislation, it is logical to doubt that the Law on the Transparency of Foreign Influence aims to restrict the freedom of expression of the civil society and media organizations, and to forcibly register them in the discrediting database, by envisaging repressive mechanisms in the law and imposing ungrounded sanctions on them. Besides that, the Venice Commission states that the sanctions are not proportionate to the violations, because such high sanctions create serious problems to the existence of the organizations.⁶⁷

In Russia, adoption of the foreign agents' law resulted into disappearance of independent media and critical civil society organizations. Additionally, nobody wished to fund the organizations, which were registered as pursuers of the interests of foreign power. So, after the law fully goes in force in Georgia, it is logical assumption that the CSOs, which exposed the government members in various unlawful activities without any threat, will become targets of sanctions and will no longer be able to continue activities as watchdogs. Therefore, the Venice Commission categorically recommended the Government of Georgia to refuse restriction of civil society and media organizations, and impose sanctions on them.⁶⁸

ONCLUSION

Civil society organizations are composed of the defenders of the rights of women, children, people with disabilities, elderlies, IDPs, minorities and others, and provide them with legal,

⁶¹ Ibid, para. 18-26, 99

⁶² Law of Georgia on Facilitating the Prevention of Money Laundering and the Financing of Terrorism, Article 10, 25

⁶³ Law of Georgia on Lobbying, Article 13

⁶⁴ Criminal Code of Georgia, Article 319

⁶⁵ Ibid, Article 314

⁶⁶ Ibid, Article 318

⁶⁷ CDL-PI(2024)013; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LA (VENICE COMMISSION) GEORGIA URGENT OPINION ON THE LAW ON TRANSPARENCY OF FOREIGN INFLUENCE issued on 21 May 2024; Para. 88-90; see [link](#)

⁶⁸ Ibid, Para 99

psychological, economic, political and social aid for free. Nevertheless, the Government of Georgia has been trying to discredit the work of the civil sector for years, to disregard the role of these organizations in the society.

The repressive Law on the Transparency of Foreign Influence was passed in response to the disclosure of hundreds of facts of violence, corruption and unlawful activities of the authorities, which were reported by the CSOs and media. The law contradicts the Constitution of Georgia, the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

The law is the Russian authoritative instrument to subdue freedom of expression. Its adoption makes launching the negotiations with the EU impossible by the end of the year. The Government of Georgia, instead of fulfilling the 9 recommendations of the EU, increases distance between Georgia and the EU and significantly harms democratic and safe future of Georgia.

The law adopted in Georgia is Russian with its context because it uses analogical authoritative instruments to restrict freedom of expression. Such laws were adopted in Russia, Hungary, Belarus and Kirgizstan. The European Court of Human Rights, as well as the Court of Justice of the European Union have already passed judgments with regard to similar laws, and evaluated the risks coming from these laws in details. Based on the decision of the CJEU, Hungary was forced to annul the law because execution of the judgment of CJEU is obligatory for an EU member state. By adopting the contextually Russian law, the Government of Georgia turned away from the constitutionally guaranteed pro-western path and democratic values. Firstly, it did not envisage the critical decisions of the international courts with regard to similar laws, and secondly neglected detailed clarifications of the Venice Commission as well as statements and recommendations of the international partners to annul the law.

One of the significant problems related with the law is stigmatization of CSOs by labelling them. Labeling an organization as implementer of foreign interests degrades their reputation and increases mistrust towards them while, in reality, diverse financing guarantees their maximum independence. Creation the data base of the organizations pursuing the interests of foreign power contradicts the decision of the ECtHR. Also, in accordance with the urgent opinion of the Venice Commission, the repressive law may already undermine the activities of the organizations by labeling them without any grounds.

Additionally, the Law on the Transparency of Foreign Influence envisages various repressive mechanisms. Irrespective the organization gets financing from foreign countries or not, the monitoring process may start and the organization will be obliged to disclose personal information, including sexual life of individuals. Physical persons, organizations, entities and institutions have obligation to disclose similar information, and if they refuse to provide, the law imposes sanctions. The Venice Commission also mentioned in its conclusion that it is very difficult to see connection between these repressive mechanisms and declared aim of the law.

In terms of transparency, the existing legislation already contains the provisions, which imposes many obligations on the organizations. Secondly, the repressive law envisages vague procedures of registration or termination of registration of the organizations, which enables the Ministry to request sensitive information from the organization, which may intimidate the organization and individuals. The overall goal of this law is to restrict the activities of the CSOs through long, exhausting and disturbing monitoring and strict administrative sanctions.

In the end, the real aim of the law is silencing the critical voice and not transparency. It creates objective risks of silencing and liquidation of CSOs and media. The organizations and media, which are particularly critical towards the government, are under relatively higher risks.