Another "Upgrade" to the Repressive Mechanisms of the Georgian Dream

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In a fast-tracked process, the Georgian Dream-led parliament has introduced further amendments to various laws, including the Soviet-era Code of Administrative Offenses—the regime's primary tool of repression.[2]

The stated purpose of these amendments is to create the state's capacity to respond effectively to public security challenges.[3] But this raises an immediate question: What challenges is the regime referring to, and why does it believe the existing mechanisms are insufficient? The answer is obvious. The real objective is to quash the ongoing protests against the regime and ultimately silence critical voices—voices that have remained resistant vis-à-vis the increasingly severe crackdowns.

Moreover, in pursuing these measures, the regime itself appears to be facing the threat of resource exhaustion. As a result, it has taken various steps aimed at both intensifying fear among citizens and making it easier to impose the harshest possible punishments. Whether these efforts will succeed, however, remains to be seen. Achieving this goal may require the regime to introduce additional mechanisms and further tighten its repressive apparatus—at the cost of yet more resources. Only time will tell whose interests and assets will be sacrificed in the process. At this stage, however, a general assessment of the means employed to achieve these objectives is already more or less possible.

Interestingly, in what it considers one of its most challenging undertakings, the regime has partially acknowledged—believing this admission to be in its own interest—something it had long tried to ignore: the existence of criminal provisions within the Code of Administrative Offenses and the failure to apply the appropriate legal standards to them.

The explanatory note states: "In practice, the effective enforcement of legal norms often depends on the existence of appropriate measures of accountability. In this regard, the Code of Administrative Offenses

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[2] Law of Georgia on Amending the Code of Administrative Offences of Georgia, 273-IIმს-XIმპ, Legislative Herald of Georgia, website 06/02/2025.
https://matsne.gov.ge/ka/document/view/6407866?publication=0

[3] Explanatory note to the draft law N 07-3/22/11 on Amending the Code of Administrative Offences of Georgia. Accessible at: https://info.parliament.ge/file/1/BillReviewContent/377468

includes offences that, by their nature, go beyond minor infractions and therefore require a stricter approach."

The justification for the draft law also references the case *Makarashvili v. Georgia*. In its ruling, the European Court emphasized that although Georgian legislation classified the offense in question as administrative, its well-established case law dictated otherwise. Given the nature of the penalty imposed—administrative imprisonment, which entails deprivation of liberty and serves a purely punitive function—the Court considered the offense to be criminal under the Convention. Accordingly, it applied the legal standards typically used in criminal cases.[4]

Accordingly, this serves as a clear acknowledgment that the Soviet-era Code of Administrative Offenses, still in force today, does indeed contain provisions for offenses of a criminal nature—ones that have been applied with notable flexibility and effectiveness in practice. Beyond mere recognition, this also signals an intent to expand such offenses and impose even harsher measures, such as extending administrative detention to 60 days and introducing stricter sanctions.

At the same time, the initiators of these amendments see no issue with this approach. They even cite the practice of the European Court of Human Rights, which holds that administrative detention does not inherently violate the rights protected by the European Convention—provided that the legal status of the detainee and procedural safeguards are upheld.

While the explanatory note says little about the current state of procedural guarantees,[5] the criminal nature of these tightened measures calls for raising the standard of case review and aligning the evidentiary requirements and burden of proof more closely with those of criminal proceedings.

The purpose of this article is to highlight the deeply repressive nature of these mechanisms, analyze the case review processes applied to them, and uncover the real motivations behind these legislative changes.

[4] Makharashvili and Others v. Georgia no. 23158/20; 31365/20; 32525/20, 01/09/2022, par. 50-52.

[5] The challenges in this regard are exemplified by the case of *Makarashvili v. Georgia*, which highlights a concerning pattern in national court proceedings. As seen in this case, courts often base their decisions solely on the testimonies of patrol inspectors acting as witnesses. In the absence of additional evidence, the burden of proof is effectively shifted onto the accused, who is then forced to prove their own innocence.

What Mechanisms did the Regime Add for Repressions?

The Maximum Duration of Administrative Detention Increased from 15 to 60 Days

One of the most striking repressive measures is the fourfold increase in the upper limit of administrative detention. This effectively reverses a previous reform that had reduced administrative detention from 90 to 15 days—a change once celebrated as a major achievement. At the time, Georgian Dream representatives hailed the reform as the dismantling of a repressive tool used by the previous government, which, by their own assessment, primarily targeted freedom of expression and assembly.[6] Now, the regime has reinstated this very mechanism.

Notably, when the 90-day detention period was abolished in 2014, it was deemed a violation of the principle of proportionality, and the 15-day limit was introduced instead. According to the initiators of that reform, this adjustment aimed to align Georgian legislation with the standards of European and other developed countries, where administrative detention does not exceed 15 days.[7]

In addition to raising the upper limit of administrative detention, the regime has also imposed the harshest possible penalties for specific offenses by extending detention terms. Unsurprisingly, all of these offenses are linked to protests, creating even greater opportunities for the authorities to suppress freedom of expression, assembly, and demonstration.

As mentioned earlier, the regime presents the supposed improvement in case review standards as a counterbalance to these severe punishments. In their view, this adjustment aligns with the requirements set by the European Court of Human Rights and ensures compliance with the European Convention.

What Is Changing in the Case Review Process?

The amendments introduce clearer language regarding procedural guarantees in administrative offense cases. At least on paper, the following principles are now explicitly stated:

- Court hearings for administrative offenses must be conducted based on the principles of equality and adversarial proceedings between the parties (Article 233^1 (1)).

[6] Upper Limit of Administrative Detention to be Reduced from 90 to 15 Days, Tabula, 30/-1/2014. Accessible at: https://tabula.ge/ge/news/564928-administratsiuli-patimrobis-zeda-zghvari-90;
Administrative Detention to be Reduced from 90 to 15 Days, Radio Liberty, 15/07/2014. Accessible at: https://www.radiotavisupleba.ge/a/administraciuli-patimroba/25457522.html

[7] Explanatory note to the draft law 07-3/345/8 to the Code of Administrative Offences. Accessible at: https://info.parliament.ge/#law-drafting/6046

- Each party has the right to file motions, obtain and request evidence through the court, and present and examine all relevant evidence (Article 233^1 (1)).
- The court has the authority to independently request additional information or evidence (Article 233^1 (2)).
- The responsibility for proving the offense lies with the administrative body handling the case (Article 236(3)).
- No piece of evidence carries predetermined weight. The deciding body (or official) must evaluate all evidence in accordance with the law and legal conscience, based on a comprehensive, objective examination of the case (Article 237(1)).
- Any doubts that arise during evidence assessment and remain unconfirmed under Georgian law must be resolved in favor of the accused (Article 237(2)).
- Any ruling in an administrative offense case must be lawful, substantiated, and fair (Article 266 (1^1)).

Given these so-called guarantees, two entirely valid—albeit rhetorical—questions arise: 1. Can past trials, particularly those that resulted in imprisonment and were conducted without these basic safeguards, truly be considered fair? 2. Since these amendments came into force, can we point to a single case that has been handled in full compliance with these newly established standards?

While protesters continue to face trials based on illegal and unsubstantiated evidence—where the Ministry of Internal Affairs is effectively granted unquestionable authority—it is evident that these so-called safeguards serve only as a façade of legality. In reality, they remain nothing more than words on paper. No matter how much the regime tries to present these reforms as genuine legal protections, simply writing down standards does not equate to upholding human rights. And when those rights continue to be violated in practice, the European Court's scrutiny and criticism remain inevitable.

A conscientious judge or relevant authority, genuinely committed to fair legal proceedings, could have ensured compliance with these standards even without the recent amendments. Conversely, a judge or official chosen for their loyalty to the regime—one who operates with impunity and prioritizes obedience over justice—will never uphold these principles, no matter how explicitly they are written into law.

Does the Court Have Time to Ensure a "Fair Trial"?

The court has become so overloaded that it fails to meet not only European standards but even the regime's own procedural benchmarks. In response to this backlog, yet another amendment has been introduced—extending the time limit for imposing penalties in administrative offense cases.

Previously, courts had a four-month window to impose a penalty, starting from the date of the alleged offense. This period has now been extended to six months (*Article 38(2)*).

Moreover, cases involving offenses commonly used to suppress the right to assembly and protest have been removed from the court's jurisdiction altogether.[8] This change, combined with the growing number of cases the regime seeks to prosecute, is a clear attempt to shield itself from running out of time to impose penalties. Now, simply issuing a violation report and penalty charge notice through the Ministry of Internal Affairs is enough to hold a person accountable — ensuring that penalties can be imposed without the risk of procedural time limits expiring.

As we have seen, based on well-established practice, representatives of the Ministry of Internal Affairs themselves draw up a report for the violation of the law and issue a penalty charge notice or a resolution imposing a fine on protest participants. A citizen has 10 days to appeal such a fine to a superior authority. The superior official of the Ministry of Internal Affairs has 30 days to respond—most likely by rejecting the administrative complaint. If the complaint is denied, the individual has 10 days to appeal the decision to the Administrative Board of the Court of First Instance, which, unsurprisingly, will issue a resolution whenever it deems necessary or appropriate, certainly disregarding the legal deadlines.

The First Instance Court's decision can then be appealed to the Court of Appeal. If the Court of Appeal declares the appeal inadmissible or rejects it, that decision is final. Only after this rejection does the deadline for paying the fine resume, as it is considered suspended throughout the appeal process.

[8] The relevant offenses are as follows: Section 1 (violation of the rules for organizing and holding assemblies and demonstrations), Section 2 (committing of an action provided for in Section 1 by the organizer of the assembly or demonstrations), Section 5 (holding an assembly or demonstration in places specified in Article 9 of the Law on Assemblies and Manifestations, holding an assembly or demonstration in violation of the Law on Family Values and the Protection of Minors, making prohibited calls during the organization and holding of an assembly or demonstration, possessing items prohibited by law during an assembly or demonstration, or committing actions (except for using a laser, covering the face with a mask or any other means, or participating in a demonstration that was stopped at the request of the Ministry of Internal Affairs)), and Section 7 (using a laser, covering the face with a mask or any other means) of Article 174[1] of the Code of Administrative Offenses.

Even if this process drags on for years, the period for imposing a fine remains suspended, meaning the individual will ultimately have to face consequences for actions committed years earlier. This is the key difference when a case is handled directly by the court—it must have enough time to review the case and issue a resolution recognizing the person as an offender and imposing an administrative fine within six months. Otherwise, exceeding this time limit would serve as grounds for terminating the case.

Although this change allows fined individuals to delay payment for a certain period, the system was forced to implement it due to a severe shortage of resources. It is also important to note that the court was previously required to rule on cases related to Article 174[1] within three days of receiving them (Article 262(2)), a deadline it consistently failed to meet. With this amendment, the court—or rather, a handful of judges—will now be relieved of this burden.

In particular, as is well known, the system relies on just a few judges to consider these types of disputes, and they are working at full capacity. Specifically, six judges from the Tbilisi City Court—**Manuchar Tsatsua, Nino Enukidze, Koba Chagunava, Lela Tsagareishvili, Lela Mildenberger**, and **Zviad Tsekvava**—are required to handle dozens of cases daily, often staying in court late into the night and even on non-working days, trying dozens of innocent individuals. Under these circumstances, the remaining judges on the Administrative Cases Board are not burdened with such disputes.

It is interesting to note that judges **Nino Shcherbakov**, **Irakli Chikashua**, and **Valeriane Filishvili**, who were among the busiest judges during the 2019 protests and in the spring of 2024, have been excluded from this process. The reason for their removal during this period is unclear. Perhaps their trustworthiness has diminished, or conversely, the system is shielding them from being repeatedly involved in such questionable practices.

Additionally, the seemingly more favorable form of fining for protest participants (since it suspends payment until the final resolution of the case) could theoretically be expedited if the Ministry of Internal Affairs issues a standard template response within just a few days, rather than using the full 30-day period to consider the complaint. In this case, the court would consider the dispute more quickly. Moreover, it is possible that the regime may propose further amendments, potentially removing the suspension of the fine's execution period. At this stage, however, it is clear that, in addition to the court's overwhelming workload, if protest participants are fined at this pace, both the judicial system and the Ministry of Internal Affairs will be significantly overloaded and this entire process will incur substantial costs.

GEL 5,000 Fines from the Ministry of Internal Affairs

Special attention must be given to the fines imposed on citizens—often in the middle of the night—by employees of the Ministry of Internal Affairs or the Criminal Police, who have essentially become postmen. In most cases, protest participants are found guilty of artificially blocking a road and are fined GEL 5,000. However, there are also instances where individuals have been fined GEL 2,000 for wearing a mask or using a laser—penalties introduced for the first time.

How Was This Authority Transferred to the Ministry of Internal Affairs?

As previously mentioned, according to the amendments, a large portion[9] of violations under Article 174[1] of the Code of Administrative Offenses (if committed for the first time), which pertain to violations of the rules for organizing and holding assemblies and demonstrations, were removed from the court's jurisdiction. Consequently, the Ministry of Internal Affairs was granted the authority to respond to these violations and officially designate individuals as offenders.

Notably, some of these offenses still include imprisonment as a form of punishment—specifically, those outlined in Parts 5 and 7 of Article 174[1]. For example, for artificially blocking a road, both a GEL 5,000 fine and administrative imprisonment of up to 15 days may be imposed.

Can the Ministry of Internal Affairs Itself Sentence a Person to Detention?

With the transfer of authority to prosecute offenses to the Ministry of Internal Affairs, the Ministry still does not have the power to impose detention as a form of punishment. This is because the Code of Administrative Offenses grants this authority exclusively to the court (Article 32).

Then, how is detention imposed in cases outlined in Sections 5 and 7 of Article 174[1], if neither the Ministry of Internal Affairs has this power nor does the court have jurisdiction?

The amendments introduced a clarification: the court retains jurisdiction over these offenses if the relevant official within the Ministry of Internal Affairs determines that the offender should be sentenced to administrative detention. In such cases, the Ministry of Internal Affairs must immediately refer the offender to the appropriate court, which will review the case and issue a ruling (Article 208[1]).

[9] The court's jurisdiction still applies to offenses related to blocking the entrance to the court, holding a gathering or demonstration at a judge's residence or at the Common Court of Georgia, as well as participating in a rally that was stopped by the Ministry of Internal Affairs.

This means that for such offenses, the Ministry of Internal Affairs still has the authority to request administrative detention and imprisonment, and the court may consider the case accordingly.

Before the changes, a person summoned by the court remained in uncertainty throughout the process, unaware of the possible penalty they might face. Now, the situation is clearer: if the Ministry of Internal Affairs personally delivers a fine, detention is not expected. However, if the Ministry presents the person directly to the court, this signals that the Ministry is seeking detention. Hypothetically, the court could reject this request, instead imposing only a fine or even not recognizing the person as an offender.

How Justified Is It to Remove Such Offenses from the Court's Jurisdiction When They Include Severe Sanctions, Such as Detention?

Examining the Code of Administrative Offenses, it becomes evident that most offenses[10] that include detention as a form of punishment fall under the court's jurisdiction, rather than that of another authorized body.

Interestingly, in the initial[11] version of the amendments, which was introduced and approved at the first hearing[12] on February 5, 2025, the offenses outlined in Sections 5 and 7 of Article 174[1]—which were intended to be removed from the court's jurisdiction—did not originally include detention as an administrative punishment.

However, for the second reading, in accordance with Article 112, Paragraph 13 of the Rules of Procedure of the Parliament, one of the initiators of the draft law requested the separation of several articles (including Article 174[1]) from the draft law to be approved at the second reading, citing the need for additional discussion.[13]

Specifically, he explained that in order to better assess the issue from a human rights perspective, enhance legal guarantees, and clarify procedural aspects, further consultations were necessary. As a result, at the second reading, only a few articles would be voted on separately, and then at the third reading, the draft

[10] According to the Code of Administrative Offenses, out of 51 instances where detention can be imposed, 43 offenses fall under the court's jurisdiction. In only six cases, the authority to consider the offense is assigned to the Ministry of Internal Affairs. Additionally, in one case, the Ministry of Finance is the responsible body, while in one other instance, the authorized body is not specified.

[11] Explanatory note to the draft law N 07-3/22/11 on Amending the Code of Administrative Offences of Georgia. Accessible at: https://www.parliament.ge/legislation/30044

[12] https://info.parliament.ge/file/1/BillReviewContent/377775

[13] https://info.parliament.ge/#law-drafting/30067

law would be consolidated.[14] However, it turned out that just four hours[15] were deemed sufficient for these consultations. The key question remains: was this enough time to ensure that the amendments align with the highest standards of human rights protection?

Both key facts—that only a court can impose imprisonment and that offenses carrying potential imprisonment are typically under the court's jurisdiction—tie back to the central issue raised at the beginning of this article. Specifically, detention is such a severe punishment that it often transforms an offense into a criminal matter, necessitating appropriate procedural safeguards. As we noted earlier, the regime itself acknowledges this reality. However, the regime frames the issue as if these concerns apply only in cases where detention is imposed as a penalty— even when the maximum term is extended to 60 days.

In practice, according to the so-called Engel criteria established by the European Court of Human Rights, the following factors are crucial in determining whether a charge qualifies as criminal under Article 6 of the Convention: 1. The legal classification of the offense under national law, specifically whether it falls under criminal legislation; 2. The inherently criminal nature of the offense; 3. The severity of the potential punishment. The failure to meet the first criterion does not necessarily rule out the criminal nature of the offense. As for the second and third criteria, they are considered alternative but may also be assessed together as complementary if neither is independently conclusive.[16]

Based on this legal test and the well-established case law of the European Court, an offense may be deemed criminal if: 1. It has a criminal nature, meaning it applies to the general public rather than a limited group of persons[17] and serves a punitive or deterrent purpose[18]); or 2. It carries a penalty of a severity

[14] https://info.parliament.ge/file/1/BillPackageContent/47200?

[15] Draft law was voted at the second reading (except for separated articles) on 6 February 2025 at 14:39 whereas separated articles were voted at 18:48 of the same day which was followed by the adoption of the draft law at the third hearing. Accessible at: https://www.parliament.ge/legislation/30044

[16] Engel and Others v. The Netherlands, no. 5100/71; 5101/71; 5102/71; 5354/72; 5370/72, 08/06/1976, para. 82-83.

[17] In Kasparov and Others, v. Russia (no. 21613/07, October 3, 2013), the European Court of Human Rights clarified that the Russian Code of Administrative Offenses penalizes participation in an unauthorized demonstration. This provision governs violations against public order and establishes the rules for holding demonstrations. Since the legal rule in question applies to all citizens rather than a specific group with a special status, the Court concluded that the offense was of a general nature. This, in turn, is one of the defining indicators of its criminal nature for the purposes of the Convention (para. 42).

[18] In *Nemtsov v. Russia* (no. 1774/11, July 31, 2014), the European Court of Human Rights ruled that the 15-day detention imposed on the plaintiff was of a purely punitive nature (paras. 82-84). Similarly, in *Mikhaylova v. Russia* (no. 46998/08, November 19, 2015), where the penalty was a fine of up to 1,000 rubles, the Court clarified that if a sanction is intended not merely to compensate for material damage but primarily serves a punitive and deterrent purpose, it is sufficient to consider the offense as having a legal nature for the purposes of the Convention (paras.

typically associated with criminal law. Such penalties include detention,[19] except in cases where the nature, duration, or execution of the sentence does not cause significant harm.

Regarding the severity of the penalty, it is important to focus on the potential maximum penalty rather than the one actually imposed.[20] In *Balsytė-Lideikienė v. Lithuania*, the Court clarified that even though the individual in question only received a warning, the possible penalty ranged from 1,000 to 10,000 LTL, with the option of detention for up to 30 days in case of non-payment. Furthermore, the plaintiff's property was confiscated, which the Court noted is often regarded as a sanction of criminal nature.

The above-mentioned practice and criteria are essential for demonstrating that, in fact, the Code of Administrative Offenses, particularly in light of the numerous amendments made in the last month, contains several offenses that should be considered criminal in nature for the purposes of the Convention. Not all of these offenses necessarily envisage detention as a form of punishment. For instance, Section 5 of Article 174^1 of the Code of Administrative Offenses, under which many individuals have already been fined, is criminal in nature, even if the detention aspect is excluded. Although this article grants the Ministry of Internal Affairs the authority to classify an individual as an offender—except in cases involving detention, where jurisdiction transfers to the court—the Ministry retains jurisdiction over offenses that are criminal in nature.

This offense, like many others, is criminal in nature for several reasons. First, it applies to everyone, not just a specific group with a particular status. It is not aimed at compensating for material damage but serves both punitive and deterrent purposes (even if the law does not explicitly state that the administrative penalty's purpose is punitive, the law clearly indicates its deterrent nature, as does the explanatory note to the amendments). Moreover, the penalty is particularly severe for offenders.

To substantiate the above, a few logical arguments are sufficient. A person who is deemed an offender by the police for artificially blocking a road, based on somewhat vague criteria, will face a fine of GEL 5,000.

64-65). In the same case, when addressing the plaintiff's claim regarding the absence of free legal assistance, the Court noted that although 1,000 rubles was a relatively small amount, the proceedings directly concerned the plaintiff's exercise of freedom of expression, assembly, and demonstration. Therefore, the Court rejected the argument that the stakes were insignificant in the plaintiff's case (para. 99). Furthermore, in *Balsytė-Lideikienė v. Lithuania* (no. 72596/01, November 4, 2008), the Court emphasized that the Code of Administrative Offenses itself stated that the purpose of an administrative penalty was to punish the offender and deter repeat offenses (para. 58).

[19] Balsytė-Lideikienė v. Lithuania no.72596/01, 04/11/2008, para. 60.

[20] Galstyan v. Armenia No. 26989/03, 15/11/2007, para. 59.

This fine, which was previously only GEL 500 according to the law, has increased tenfold in response to the protests, with the clear intention to severely punish their participants.

If we systematically examine the Code of Administrative Offenses and identify which types of offenses incur a fixed fine of GEL 5,000—or even a smaller amount for first-time violations[21] —we can clearly see the gross and obvious disproportionality of this fine amount. Not only is it disproportionate in relation to the offense itself, but it also stands in stark contrast to the overall goals of the Code of Administrative Offenses.

Even in the Criminal Code, judges have more discretion in determining the amount of a fine. Specifically, the Code sets a lower ceiling of GEL 2,000[22] after which it is up to the judge to decide the appropriate fine amount. In doing so, judges have the flexibility to impose a lighter sanction for specific crimes than an administrative panel judge can. They are also able to consider the severity of the crime committed and the material situation of the convicted person, which includes factors like their property, income, and other relevant circumstances.[23]

On the other hand, the disproportionality of the GEL 5,000 fine (not to mention the even higher fines provided by the amendments for various actions) and its punitive nature are also evident in the fact that it exceeds the median monthly salary in Georgia by four times and the average salary by 2.5 times.

In addition to the high fine amount, it is important to consider the consequences if a person fails to pay the fine within the legally established period. In the case of a fine issued by the Ministry of Internal Affairs, the payment must be made within 30 days from the date of delivery (although in the case of an appeal, this period is suspended until the final rejection). For a fine imposed by a court ruling, the payment must be made within 7 days from the date of delivery of the penalty charge notice.[24]

According to Article 291 of the Code, if the fine is not paid within the designated period, the resolution on the imposition of the fine will be compulsorily enforced from the offender's salary, pension, scholarship,

[21] Section 5 of Article 58^2 „Dumping isolated ballast water into the sea from a ship with up to 20 000 tons of total capacity in violation of the rules laid down by the legislation of Georgia, Section 1 of Article 88 „Violation of statutory rules for performing works or archaeological works on cultural heritage sites, violation of the relevant design or other permit conditions“, Article 92 - Non-compliance with the requirements set by the Georgian National Energy and Water Supply Regulatory Commission, Article 144^4 - Violation of the regulations for erecting and operating radio-electronic devices and high-frequency equipment, Article 172^5 - Failure of the administration of a medical institution to notify the guardianship and custodianship authority of the admission of an obstetric patient without an ID card, of the elopement of such patients or abandonment of the infant, Article 179^3(1) - Selling harmful alcoholic beverages

[22] Criminal Code of Georgia, Article 42(2).

[23] Criminal Code of Georgia, Article 42(3).

[24] Section 1 of Article 290 of the Code of Administrative Offenses.

or other income, in accordance with the procedure established by Georgian law. If the fined person is unemployed or if the fine cannot be paid from their salary, scholarship, or other income for any other reason, the payment will be enforced by the bailiff. This will involve taking a recourse against the offender's personal property or their share in the common property, based on the order issued by the relevant body (official).

It is hard to imagine that the majority of the Georgian population would have such a large sum directly deposited into their accounts, and in the event of a fine, be able to transfer it to the budget within 7 or even 30 days. Not even one of the high-ranking officials in Georgia, including a judge of the first instance court, whose official salary is 4,000 GEL (excluding salary supplements) according to the Law on Common Courts, is paid this amount.[25]

With regard to the enforcement process, it is also worth considering when the deadline for voluntary payment of a fine actually begins, particularly in the case of fines issued by the Ministry of Internal Affairs. In such cases, the person being fined may not even be properly informed, complicating the process further.

In this regard, the strange practice of issuing this type of fine itself causes uncertainty. Specifically, in some cases, the Ministry of Internal Affairs issues a direct report and claims that the report was written on the spot, meaning it was drafted in front of the offender, directly at the location of the offense. Accordingly, it is assumed that the report will be considered delivered as soon as the person becomes acquainted with it. However, in practice, a fine imposed on the spot is not necessarily written immediately, and these types of penalty charge notices are often delivered to the offenders at their homes or other locations, at a time and place different from the location of the offense and the time of committing an offense. As a result, there is a chance that the so-called "postman MIA employee" may not find the person at the registered address, leaving the person unaware that a fine has been issued against them. In such cases, the law does not specify, and logically cannot specify, how a fine issued on the spot should be formally delivered (since it assumes the fine would be submitted at the spot).[26] Nevertheless, it is not excluded that a general rule

[25] Article 69(2)L of the Law of Georgia on Common Courts. According to the same article, labor remuneration for a judge of Court of Appeals is GEL 5,000 and for the judge of the Supreme Court it is GEL 6,000. Accessible at: https://matsne.gov.ge/ka/document/view/90676?publication=52

[26] The Code acknowledges an exception for on-the-spot fines when the fine cannot be issued immediately and, consequently, cannot be handed over on the spot. In such cases, when the offense is established through photo or video evidence, a different procedure for delivering the penalty charge notice is provided. However, it is important to note that this exception specifically applies to violations related to traffic rules. This procedure is outlined in the Order of the Ministry of Internal Affairs of Georgia, dated October 31, 2017, N 534, "On Approval of the Procedure for Publicly Publishing a Fine for a Violation of the Law Recorded on a Video Recording and/or Photo Recording" - consolidated version of 6 April 2020. Accessible at:

could apply to this situation (though its legality could be questioned), which would involve the standard procedure for delivering a penalty charge notice or decree when not issued on the spot.

A penalty charge notice is issued to a person based on their place of registration. If the person fails to receive it on the first attempt or a subsequent attempt (sent to the same address no earlier than the 30th day), the notice will be publicly posted on the official website of the Ministry of Internal Affairs. It will then be considered officially delivered on the 30th day after its publication (Article 290[1]). In practice, however, the Ministry of Internal Affairs does not strictly follow this rule and publishes the notice immediately. Furthermore, it remains unclear where exactly these fines should be published.

This ambiguous procedure for delivering fines—especially when they carry significant and severe penalties—creates a serious risk that individuals may remain unaware of their fines. As a result, their right to appeal and to a fair trial may be restricted. Additionally, compulsory enforcement measures may be initiated against them.

Finally, yet another amendment concerns the inadequate fine amounts and the real issue of non-payment, which leads to the offender being deemed not to have been penalized. Under the new provisions, the period for recognizing certain violations (including those used against protesters) as not having been penalized is now linked to the full payment of the fine. Only after the fine has been paid in full does the one-year period begin, after which the person is considered not to have been subjected to a penalty (Article 39(3)). This status is crucial, as the Code treats prior penalties as an aggravating factor. In many cases, if a person commits the same offense again, stricter sanctions will apply.

For example, if a person is held liable for any of the actions outlined in Article 174[1] of the Code of Administrative Offenses and subsequently commits an offense under Section 5 of the same article, their fine will increase from GEL 5,000 to GEL 10,000, and the maximum possible term of administrative detention will rise to 25 days. If the person is charged with organizing such an action, the fine will range from GEL 15,000 to GEL 20,000, or they may face imprisonment for up to 60 days.

Given all of the above, it is difficult—if not impossible—not to recognize the criminal nature of administrative offenses related to protests. These penalties are not only purely punitive but also disproportionate, failing to comply with the principle of proportionality. They are easily subjected to compulsory enforcement, placing an excessive and unjustified burden on the offender. Rather than serving

[1] https://www.matsne.gov.ge/ka/document/view/3834591?publication=1

the Code of Administrative Offenses' stated purpose[27] of fostering respect for societal rules, these measures function as tools of repression, aiming to silence and intimidate critical citizens. As a result, they have a chilling effect on society as a whole and severely undermine the right to freedom of expression.

Under these conditions, it becomes evident that when assessing an offense, not only are the principles of a fair trial and relevant legal standards disregarded, but often even the minimum procedural requirements are not met. The Ministry of Internal Affairs, which claims that penalty charge notices are issued following an on-site review of the case, in reality, does not conduct such a review. According to Article 234¹ of the Code of Administrative Offenses, an on-site review of an offense requires a comprehensive, thorough, and objective examination of the case at the location of the offense, the immediate imposition of an administrative penalty, and the direct delivery of the penalty charge notice to the offender.

In practice, however, individuals fined in this manner are merely handed a notice by an official who is often unaware of the case details, refuses to answer questions, and only informs them of their right to appeal. Furthermore, the penalty charge notice—still outdated and not adapted to the recent amendments to the Code—often appears to be a generic template for a different offense and provides misleading information regarding the consequences of non-payment.[28]

Moreover, while the person technically has the right to appeal, the vague and inconsistent notification procedures mean that the notice may never reach them. As a result, enforcement of the fine may begin before they even have the chance to exercise their right to appeal it.

The issue of the burden of proof in appeal cases is also noteworthy. When a person contests a penalty charge notice without additional evidence, they are limited to appealing to a superior official, merely arguing that the fine imposed is unlawful or unjustified. They are effectively deprived of the opportunity to present other types of arguments. The recent amendments clarify that, in administrative offense

[27] According to the Article 23 of the Code of Administrative Offenses, „An administrative penalty is a measure of liability and is applied to educate an administrative perpetrator in the spirit of respect for the rule of law, the ways of social life as well as to avoid the commission of new offences, either by the offender or other persons".

[28] For instance, a GEL 5,000 penalty charge notice issued on February 8 under Section 5 of Article 174¹ states: "In accordance with Section 1 of Article 290 of the Code of Administrative Offenses of Georgia, the offender must voluntarily pay the fine within 30 days from the submission of the penalty charge notice. Failure to do so within the specified period will result in penalty interest equal to twice the amount of the imposed fine, but not exceeding GEL 500 (except in cases covered by Articles 86¹ and 114² of the Code of Administrative Offenses, where the penalty interest will be twice the amount of the imposed fine). If neither the fine nor the penalty interest is paid within the period specified in Section 5 of Article 290, the fine will be replaced by a six-month suspension of the right to drive a motor vehicle." This rule applies to violations related to driving regulations, where specific offenses allow for the imposition of penalty interest. However, Article 174¹ does not include any such provision.

proceedings, the burden of proof rests with the administrative body handling the case. However, there is no explicit confirmation that this applies at all stages of the process. The only clear reference to the burden of proof appears in the appeal stage, where the responsibility for proving the illegality or lack of justification of the penalty charge notice falls on the appellant (Article 272(8)). This suggests that, theoretically, at any stage prior to the Court of Appeals, the burden of proof should lie with the administrative body.

In principle, this could serve as an important safeguard in case proceedings—particularly if implemented effectively in practice. However, even if a mechanism for ex post judicial review were in place, it would not substitute for the proper adjudication of the case as a criminal offense. The level of scrutiny and fairness required can often only be ensured by a court as an impartial and independent institution.

Unfortunately, in addition to the fact that the guarantees provided by the Code are illusory due to other accompanying changes, they also do not work in practice within the current system. In reality, the burden of proof often shifts to the person accused of being an offender. Since they do not have the opportunity to present evidence, the administrative body usually also does not possess the requested evidence essential for the case. Moreover, witnesses presented by the accused and their testimonies are often deemed biased, while police inspectors, who are frequently used as false witnesses, are considered neutral. Only they are deemed trustworthy by the court, and court decisions are largely based on their statements.[29]

Summary

With the hastily adopted changes, the regime sought a simple, cost-effective way to deploy repressive mechanisms, allowing it to respond as swiftly as possible to each act of protest.

These amendments clearly indicate that Georgian Dream is facing a serious shortage of resources and must quickly reorganize to address emerging challenges. Moreover, the changes serve an important

[29] In *Nemtsov v. Russia*, the European Court considered the role of police officers in relation to the offense and concluded that they could not be regarded as neutral observers. Consequently, the Court rejected the defendant's argument that the officers' testimonies carried greater weight and were more reliable than those of the 13 witnesses presented by the plaintiff. These witnesses had participated in the demonstration alongside the plaintiff and were, according to the defendant, biased in this context. The Court found a violation of the right to a fair trial, noting that the national courts had based their decisions solely on evidence provided by the police, which was inherently self-referential. By denying the plaintiff the opportunity to present his own evidence, the courts placed an excessive and unreasonable burden of proof on him, effectively eliminating any realistic chance of success in court.

purpose: the regime aims to project an image of efficiency, conveying that it sees everything and reacts to everything.

This is further evidenced by late-night visits from Ministry of Internal Affairs officers to protesters' homes—a tactic not explicitly derived from the law. In reality, this practice serves as an additional means of intimidation, signaling to protesters that they have all been identified and that the regime is fully aware of their whereabouts and daily routines.

Under such conditions, it is cynical to attempt to "sophisticate" the legal standard for case review. Even before these changes, the existing standard should have constrained any judge who sought to conduct a fair review and should have forced them to issue at least one ruling against the regime. This raises the question: why did the regime bother to include any legal guarantees of protection at all? The answer is simple—whether these guarantees are written into law or not, nothing will change, except for the regime's self-deception. Despite reinstating mechanisms, they once opposed, they pretend that now at least the "guarantees are ensured", hoping this will result in a more favorable attitude from the European Court. However, these guarantees remain invisible, buried within the Soviet-era Code of Administrative Offenses, which has become even more repressive and chaotic than the original.