



GEORGIAN
YOUNG
LAWYERS'
ASSOCIATION



BIKERIDERS AGAINST THE RUSSIAN LAW

**LEGAL REPRESSIONS IN RESPONSE
TO PARTICIPATION IN THE DEMONSTRATIONS
AGAINST THE RUSSIAN LAW**

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**Legal Repressions in Response to Participation in the
Demonstrations Against the Russian Law**

**Tbilisi
2024**

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CONTEXT

The following document reviews and assesses the facts and legal aspects of the administrative proceedings against the motorcyclists who participated in the demonstrations against the “Russian Law”. Such legal actions were part of a broader campaign and were not distinguished individual cases.

On May 28, 2024, the Parliament of Georgia overrode the Presidential Veto and despite mass protests and substantiated criticism of the legislation, passed the Russian-style law “On Transparency of Foreign Influence”. During the demonstrations, citizens’ freedoms and rights to peaceful assembly and manifestation were frequently violated.¹ Furthermore, from the initiation of the draft law until now, the government attempts to shrink civil space with violent methods.² During the demonstrations, the participants of the protest, civil activists, journalists, politicians and their family members (including minors and elderly people) were subject to intimidation. Different methods of psychological violence as well as physical assaults were also identified.³

One of the specific groups that became victims of such repressions were motorcyclists⁴ (referred to as bikers) that constantly took part in the demonstrations against the law, joining them with motorcades and igniting the protest spirit.⁵ Although there were no sanctions used against them during the protests, the police, in following days, began to randomly stop the motorcyclists in the city and impose administrative fines on them. It is worth mentioning that some of the motorcyclists that were charged had not participated in the motorcades during the demonstrations. According to information held by Georgian Young Lawyers’ Association (GYLA), 20 individual fines were issued in connection with the circumstances described above.

The motorcyclists who received legal consultations from GYLA reported that although while riding their vehicles they had not violated the traffic

¹ For more information about the violations during the protests, see: Report of Georgian Young Lawyers’ Association, Georgia: Human Rights Amidst the Russian Law, Tbilisi, 2024, available: <https://shorturl.at/7TEHK> [26.08.2024].

² 2024 | Chronicle of Repression, Civil Georgia, 06.08.2024, available: <https://civil.ge/archives/611538>, [26.08.2024].

³ Orchestrated Intimidation of Protesters Against Agents’ Bill, Civil Georgia, 11.05.2024, available: <https://civil.ge/archives/604767>, [26.08.2024].

⁴ GYLA holds information about 20 such individuals.

⁵ In frequent cases, the participants of the demonstrations on Rustaveli Avenue or other assembly locations were joined by motorcyclists in convoys, including those who are employed in delivery service and use their vehicles for work. E.g., see: <https://www.youtube.com/watch?v=SB5ByH5cN9c>; <https://mcm.ge/228014/>, [26.08.2024].

rules they were stopped by the patrol police for check. They indicated that these instances were not standard, routine checks but rather intended to prevent motorcyclists from participating in rallies, establishing a chilling effect.

The police confined their actions to inspecting documents and, in some cases, taking photographs for identification purposes. After a brief period of checking the information in their database, they informed the drivers that their vehicles were flagged as wanted, which served as the basis for issuing fines. It remains unclear for these individuals which database holds information about them, the nature of the information kept, and the duration of its retention. It is also important to note that the process of issuing fines was accompanied by intimidation and threats.

The purpose of this document is to inform the public about administrative proceedings targeting a specific group of motorcyclists, to review the legal regulations regarding protests involving vehicles, and to assess the court resolutions related to problematic administrative complaints. Additionally, it aims to highlight how administrative-legal actions against motorcyclists could set a dangerous precedent for the protected areas of freedoms of assembly and expression.

For the purposes of the document, GYLA reviewed the processes of the past few months through open sources and relevant administrative case files.

LEGAL FRAMEWORK OF THE PROTESTS INVOLVING MEANS OF TRANSPORTATION IN GEORGIAN LEGISLATION

Participation in the protests using the vehicles falls within the protected area of Article 21 (freedom of assembly) of the Constitution of Georgia. The freedom of assembly grants individuals the right to choose the forms, means and location of their protest without constraint.⁶

In general, the arbitrary blockage of the roadway is not protected under the freedom of assembly; However, if the road is blocked due to a large size of the crowd and conduction of the demonstration is otherwise impossible, restricting the protesters' right to use the roadway for such purposes becomes unjustified.⁷

⁶ Loladze B., Pirtskhalashvili A., Fundamental Rights Commentary, Tbilisi, 2023, p. 556.

⁷ № 2/482,483,487,502 Judgement of the Constitutional Court of Georgia of April 18, 2011,

The same principle applies to protests involving the vehicles although the standard of protection is different from other forms of demonstration and highly depends on the context.

Protesting with the involvement of vehicles is restricted under the Article 125, Part 6¹ of the Administrative Offences Code of Georgia, which defines the action as: **“Blocking a road with vehicles in an organized way or taking part in a group driving in town or another populated area, during which the roadway is fully occupied”**.

The Standard Established by the Constitutional Court

The Constitutional Court examined the substantive regulation of Article 125, Part 6¹ in 2011. **According to the court, the punitive aspect of the norm is not obstruction of traffic but rather the blockage and full occupation of the roadway.** The substantive definition of the norm indicates that Article 125, Part 6¹ prohibits the use of vehicles on the roadway if it causes blockages, making it impossible for other forms of transportation to use that segment of the road while participants in the “group driving” occupy it.⁸

In general, the exercise of the right to assembly (manifestation) is limited by the rights of others and the need to protect public safety and security. **Occupying the roadway with vehicles is a form of protest, however, it directly impacts the freedom of movement and other rights of citizens not involved in the protests.⁹ It is worth noting that, according to the same court, this norm shall not be applied in cases where participants of the “group driving” do not fully occupy the roadway, nor when individuals willing to participate in the assembly (manifestation) traveling to the protest location use their preferred and convenient means of transportation.¹⁰**

The Constitutional Court defines that the restriction applies only to the cases where driving with the vehicles **has a collective nature**.

Regardless of the destination of the participants in “group driving”, the collective nature of the action equates it to a manifestation or collective march,

on the case of “Political Union of Citizens “Movement for Unified Georgia”, Political Union of Citizens “Conservative Party of Georgia”, Citizens of Georgia - Zviad Dzidziguri and Kakha Kukava, Georgian Young Lawyers’ Association, Citizens - Datchi Tsaguria and Jaba Jishkariani, Public Defender of Georgia v. the Parliament of Georgia”, II-37 - 45.

⁸ *Ibid.*, II-75.

⁹ *Ibid.*, II -78.

¹⁰ *Ibid.*, II-76.

making it subject to regulation.¹¹ The Constitutional Court notes that the purpose of the norm is to address situations where the roadway is blocked by vehicles and technical means, which could obstruct the movement of police, ambulances, or fire engines, especially during emergencies.

It should be noted that **the ability to occupy the roadway depends on the size and type of vehicles or technical means used.**¹² The court emphasizes that **Article 125, Part 6¹ of the Administrative Offences Code of Georgia does not preclude demonstrations involving vehicles, provided they comply with traffic rules and do not block the roadway or disrupt traffic.**¹³

The exercise of the right to assembly (manifestation) may naturally conflict with traffic regulations and lead to restrictions on the rights of others. While exercising this right, individual freedoms are limited by the rights of others and the need to protect public safety and security.¹⁴ Therefore, any measures that limit the assembly and manifestation shall balance these values, requiring careful assessment of the context and evidence.

The Necessity of Reforming the Administrative Offences Code

The main problem lies in the existing Administrative Offences Code that represents a heavy legacy of the Soviet era and leads to the unjustified interference with human rights.¹⁵ For many years, the Code has been utilized as a tool against the demonstrations, imposing blanket penalties on their participants and creating a chilling effect. This issue became obvious again during the protests against the “Russian Law”.¹⁶

The Code, adopted in 1984, fails to meet the requirements of a fair process. It prescribes severe penalties, including administrative imprisonment, for certain offences, but offers far fewer procedural safeguards than those available to individuals charged with criminal offences. It does not consider the presumption of innocence and does not require judges to adhere to the “beyond a reasonable doubt” standard. The limited procedures for case

¹¹ *Ibid.*, II-76.

¹² *Ibid.*, II-81.

¹³ *Ibid.*, II -78.

¹⁴ *Ibid.*, II-82.

¹⁵ Report of GYLA, Legislation on Administrative Offences: Endless Reform Attempts and Successful Strategic Litigation, Tbilisi, 2021.

<https://gyla.ge/files/news/%E1%83%A4%E1%83%9D%E1%83%9C%E1%83%93%E1%83%98/2021/Legislation%20on%20Administrative%20Offences.pdf> [26.08.2024].

¹⁶ Report of GYLA, Georgia in 2023: Assessment of the Rule of Law and Human Rights, Tbilisi, 2024, p. 22.

consideration and sanction application do not ensure effective representation in the court. Consequently, operating under the current Code leads to daily violations of fundamental human rights and international obligations assumed by Georgia.

For many years, GYLA has been advocating for reshaping the Code.¹⁷ The significance of this reform is also emphasized by the United Nations Human Rights Committee (UNHRC).¹⁸ The 2023 action plan of the Legal Issues Committee of the Parliament, similarly to the previous year's document, prioritizes the adoption of a new Administrative Offences Code, making it the first issue on its agenda. According to the plan, the draft of the law was expected to be prepared in 2023.¹⁹ Despite requests, the Parliament did not provide GYLA with the information on the specific actions taken in this regard during the year.²⁰ As a result, the Code remains an authoritarian mechanism for restricting human rights.

THE FAIRNESS OF ADMINISTRATIVE PROCEEDINGS

The Administrative Offences Code of Georgia requires the adjudicating entity to be guided by both the law and the conscience and to assess the evidence based on its inner conviction, which must be grounded on a comprehensive, thorough as well as objective examination of all the circumstances surrounding the case in their entirety.²¹ Constitutional and international human rights standards oblige the state to base justice on evidence-based reasoning.²²

According to Article 17 of the Constitution of Georgia, the rights to freedom of opinion, information, mass media, and the internet are guaranteed, while Article 21 protects the freedom of assembly. Any type of assembly or expression is protected by the Constitution and any interference with these

¹⁷ The statement of GYLA, The Legislation on Administrative Offences Requires Systemic Revision, 29.06.2017, available: <https://shorturl.at/AXqNU>, [26.08.2024].

¹⁸ United Nations Human Rights Committee, Concluding Observations on the Fifth Periodic Report of Georgia, CCPR/C/GEO/CO/5, 2022, 6. Available: <https://documents.un.org/doc/undoc/gen/g22/486/66/pdf/g2248666.pdf>, [26.08.2024].

¹⁹ 2023 Action Plan of the Legal Issues Committee of the Parliament of Georgia, available: <https://info.parliament.ge/file/1/OpenFile/6145>, [26.08.2024].

²⁰ The letter №3986/2-7/23 from the Parliament of Georgia of May 30, 2023; The letter №9298/2/7/23 from the Parliament of Georgia of December 4, 2023.

²¹ The Administrative Offences Code of Georgia, Article 237

²² *Yüksel Yalçınkaya v. Türkiye* [ECtHR], App. no. 15669/20, 26 September 2023, para. 337-341; *Çupiał v. Poland* [ECtHR], App. no. 67414/11, 9 March 2023, para 57; Although, the decisions of the ECHR pertain to judicial practice, they extend to all stages of the administration of justice, see: Council of Europe Committee of ministers, Recommendation CM/Rec(2010)12, 2010.

rights must be assessed in accordance with the proportionality principle. This principle includes evaluating the legitimate aim,²³ effectiveness,²⁴ necessity²⁵ and proportionality²⁶ of the interference in the rights.

When assessing proportionality, it is essential to recognize that freedom of expression and assembly enjoy a high standard of protection, as these rights are fundamental to the functioning of a democratic society.²⁷ The well-established practice of the European Court of Human Rights (ECHR) has set a standard for determining the proportionality of restrictions. This includes considering the mitigating (chilling) effect of the measure being applied.²⁸ For instance, obstructing an individual from traveling to attend an assembly,²⁹ or any form of hindrance or repressive actions applied after the assembly, such as groundless proceedings, violates the right to freedom of assembly. Such actions create a chilling effect on those who may wish to participate in future protests.³⁰ Furthermore, the ECHR has ruled in several cases that the state's failure to provide adequate and sufficient justification when restricting these rights is inappropriate when considering interference with freedom of expression and assembly.³¹

In the cases that GYLA reviewed, each administrative fine is issued under the Article 125, Part 6¹ of the Administrative Offences Code. It is important to note that in several instances, mopeds were stopped, confiscated, and taken to a parking lot, even when the driver was not the owner and on days when no rallies were held. After the owner arrived, they were handed a fine receipt..

It is alarming that the Ministry of Internal Affairs (MIA), in justifying the interference with these rights, failed to present appropriate arguments in any of these cases. The cases were not evaluated according to constitutional and international standards of freedom of expression, nor were any

²³ № 2/482,483,487,502 Judgment of the Constitutional Court of Georgia of April 18, 2011, II 4,28.

²⁴ Ibid., II-129-133.

²⁵ Ibid., II-46-70.

²⁶ Ibid., II-38.

²⁷ *Bychawska-siniarska D.*, Protecting the Right to Freedom of Expression Under the European Convention on Human Rights, Council of Europe, 2017, 11-17.

²⁸ *Christian Democratic People's Party v. Moldova* [ECtHR], App. no. 28793/02, 14 February 2006, para 77.

²⁹ *Kasparov v. Russia* [ECtHR], App. no. 53659/07, 11 October 2016 para. 67.

³⁰ *Nurettin Aldemir and others v. Turkey* [ECtHR], App. nos. 32124/02, 32126/02, 32129/02, 32132/02, 32133/02, 32137/02 and 32138/02, 18 December 2007, para 37.

³¹ *Uj v. Hungary Application* [ECtHR], App. no. 23954/10, 19 July 2011, para. 25-26; *Sapan v. Turkey* [ECtHR], App. no. 44102/04, 08 June 2010, para. 35-41.

explanations provided as to when and where the alleged violations were committed by the offenders.

Instead, these individuals were only given general explanations regarding the basis for issuing the fine receipt, stating that they had participated in organized driving with vehicles, thereby blocking the road.

However, the police were unable to answer questions about when or where the individual was allegedly involved in organized driving, nor could they provide any relevant evidence that served as the basis for issuing the fine.³²

Formal Consideration of the Complaint

In several cases mentioned above, GYLA has filed complaints to the Patrol Police Department (PPD) and Court. Up to 10 complaints were submitted in total; However, PPD has so far ruled on 4 of the cases and the court has yet to consider the complaints (as of September 17, 2024). The cases that have been reviewed reflect a broader trend seen in other administrative offences cases. **The complaints are considered only in a formal manner, and administrative liability is imposed on individuals solely based on the testimony of the police officer, without further substantive review.**³³

This issue is further reflected in the fact that the resolutions merely cite the norms of the Code without providing any substantive reasoning, leaving several factual circumstances undetermined. Notably, according to some of the motorcyclists, in certain instances during their protests **while driving, the road remained open, other vehicles were able to pass, and they were even escorted by a patrol police.** At the time, the police did not indicate any offences they were committing, nor did they issue fines to them.

Absence of Evidence

Absence of evidence was a common feature of all disputes. Despite the requests from the complaining party, the MIA did not provide any video or photo evidence to confirm the commission of an offence by the individuals involved. The resolution of the PPD explicitly states that no video or photo material documenting the offence exists. The decisions themselves are

³² The Resolutions of MIA: MIA 2 24 0204666; MIA 2 24 02102880; MIA 8 24 02047176.

³³ A similar trend of formally considering administrative complaints has been a longstanding issue in the Georgian justice system, see: Report of GYLA, Georgia in 2023: Assessment of the Rule of Law and Human Rights, Tbilisi, 2024, p. 22 – 24.

based on general reasoning, without proper examination or evaluation of the evidence.³⁴

Sanction (Fine), as a Tool of Repression Against Freedom of Assembly

The aforementioned complaint review process, along with the circumstances of the case, lack of evidence, and the blanket and unsubstantiated nature of the resolutions, indicate that the administrative fines imposed are primarily used as a tool for punishment, intimidation, and repression of dissent.

It is regrettable that the formalism, lack of substantiation, and blanket rulings are also prevalent in other administrative proceedings,³⁵ turning the judiciary—an institution meant to serve as a mechanism and guarantor of human rights protection—into yet another punitive instrument.

CONCLUSION

Repression against the bikers is part of a broader campaign targeting civil society, activists, and other dissidents since the introduction of the so-called “Russian Law”. Students,³⁶ civil society representatives,³⁷ and others who protested against this law and the state’s increasingly restrictive policies have faced repression and violence multiple times.³⁸ These actions collectively work to shrink civic space and suppress criticism, resulting in democratic backsliding. Bikers, like others, participated in these protests, joining the demonstrations by motorcades and igniting the spirit of the protest movement. The administrative fines imposed on the bikers and corresponding PPD/court resolutions lack legal justification, being blanketly applied without reasoned arguments, and aim to create a chilling effect to discourage

³⁴ *Ibid.*

³⁵ see: Report of GYLA, Georgia in 2023: Assessment of the Rule of Law and Human Rights, Tbilisi, 2024, p. 22 – 24.

³⁶ The statement of GYLA, Georgian Young Lawyers’ Association Responds to Another Act of Violence Against a Student who Opposes the “Russian Law”, 07.06.2024. available: <https://shorturl.at/762Mz>. [26.08.2024].

³⁷ The statement of GYLA, Georgian Non-Governmental Organizations Condemn the Government-Orchestrated Violence Against Georgian Citizens, 13.06.2024, available: <https://shorturl.at/GEBC2>, [26.08.2024].

³⁸ 2024 | Chronicle of Repression, Civil Georgia, 06.08.2024, available: <https://civil.ge/archives/611538>, [26.08.2024], Report of GYLA, Georgia: Human Rights Amidst the Russian Law, Tbilisi, 2024, available: <https://shorturl.at/7TEHK> [26.08.2024].

their future participation in protests. The MIA has failed to provide adequate justification regarding the proportionality of the interference with rights, has not evaluated the cases in line with constitutional and international standards of freedom of expression, and has offered no explanation as to when and where the alleged offences occurred.