

INTRODUCTION OF TOUGHER RESPONSIBILITY FOR DISOBEYING POLICE OFFICERS IS A STEP IN THE DIRECTION OF RESTRICTING CIVIC SPACE



A [draft law](#) envisaging stricter measures for disorderly conduct and disobeying a lawful order of a police officer has been initiated in the Parliament. The draft law is being considered under an expedited procedure.

Against the background of the political and social crisis prevailing in the country, when public protest is growing while the economic conditions are extremely hard, these changes will be a heavy burden for the population and can be assessed as a step taken in the direction of restricting civic space.

📌 DRAFT LAW, INITIATOR

Draft Law: On Amending the Administrative Offences Code of Georgia

Initiators: MPs Anri Okhanashvili, Davit Matikashvili, Aleksandre Tabatadze, Rati Ionatamishvili, Giorgi Amilakhvari, Aluda Ghudushauri, Guram Macharashvili, Kakha Kakhishvili

📌 ESSENCE OF THE DRAFT LAW

In the explanatory note accompanying these amendments, the initiators indicate that the current punishment for committing administrative offences fails to ensure the prevention of this kind of offences. They state that, due to their character and nature, these offences are heightened risk transgressions. Correspondingly, the state must create a more efficient legal framework to prevent committing these crimes.

According to the proposed draft law:

- The minimum amount of the fine for disorderly conduct (repeat offence) is increased from GEL 500 to GEL 1,500 while the cap is increased from GEL 1,000 to GEL 2,000;
- A stricter responsibility is introduced for disobeying lawful order or demand made by a law enforcement officer or other relevant state body representative on duty – the minimum amount of the fine is increased from GEL 1,000 to GEL 2,000 while the cap (for a repeat offence) is increased from GEL 4,000 to GEL 4,500.

RESPONSIBILITY FOR DISOBEYING LAWFUL ORDER OF THE POLICE

📄 CURRENT WORDING

Disobeying a lawful order or demand made by a law enforcement officer or other relevant state body representative on duty, or verbally assaulting this person and/or committing other offensive actions against him/her shall be punishable by a fine in the amount of GEL 1,000 up to GEL 4,000 or up to 15 days in administrative detention.

📄 PROPOSED AMENDMENT

- The amount of a fine is increased, namely, such action will be fined for GEL 2,000 up to GEL 3,000 or up to 15 days in administrative detention.
- Repeat offenders will be fined for GEL 3,500 up to GEL 4,500 or 10 to 15 days in administrative detention.

DISORDERLY CONDUCT

📄 CURRENT WORDING

Disorderly conduct¹ is shall be punishable by a fine in the amount of GEL 500 up to GEL 1,000 or, if these measures are considered insufficient on account of the case circumstances and the offender, by up to 15 days in administrative detention.

📄 PROPOSED AMENDMENT

Repeat disorderly conduct will be fined for GEL 1,500 up to GEL 2,000 or 7-15 days in administrative detention.

★ ASSESSMENT

1. Expedited consideration of the draft law is unsubstantiated

The draft law is being considered under an expedited procedure, however, the need for using this procedure is not properly substantiated. Specifically, the explanatory note states that “given the severity of administrative offences and due to the need to establish proportionate responsibility in a timely manner, it is expedient that the draft law is considered and adopted under an expedited procedure.” This initiative must not be considered under this procedure without broad public participation and discussion.

2. The severity of sanctions does not correspond to the standards of European countries

The authors of the draft law cite an increase in the number of offences as the main argument for introducing stricter sanctions. Against the background of extremely hard economic conditions in Georgia, increasing fines is completely incomprehensible. It is noteworthy that [numerous studies](#) find that harsher sanctions are ineffective in reducing the number of offences. Furthermore, the [explanatory note](#) states that the German law envisages a fine of up to EUR 1,000 and the law in Great Britain – up to GBP 1,000 for disorderly conduct. Average annual income per capita in Georgia is GEL 13,000. To compare, this amount is GBP 31,500 in the UK and EUR 40,000 in Germany. If we look at the burden of the fine on the average income, a fine of GEL 1,500 in Georgia amounts to 11.5% of average annual income. The GBP 1,000 fine is 3.2% of annual income and the EUR 1,000 fine in Germany is 2.5% of average annual income. To sum up, we can say that the burden of fine on the income is 3.6 times higher than in the UK and 4.6 times higher than the burden of sanctions in Germany.²

3. International standards concerning sanctions

In the opinion of the Venice Commission and the OSCE/ODIHR, disproportionate sanctions, including a heavy fine, could violate the right to freedom of assembly and have a chilling effect which would prompt those wishing to participate in gatherings and manifestations to refrain from expressing protest in the future.³ At the same time, the European Court of Human Rights [clarified](#) on numerous occasions that using inappropriately harsh sanctions may create a risk of a chilling effect.

4. Adoption of the draft law is inexpedient due to problems prevailing in the judicial system

The problematic nature is exacerbated by the fact that, as a rule, court trials of [such] offences mainly take place in an “assembly line” manner: the right to fair trial guaranteed by the European Convention is often neglected during case consideration. The adversarial principle and equality are not observed during such proceedings, evidence is not properly investigated, detainees are unable to exercise even the basic rights envisaged by the [Administrative] Offences Code. Ultimately, decisions are made solely on the basis of testimonies made by police officers.

Against the background of the political and social crisis prevailing in the country, when public protest is growing while the economic conditions are extremely hard, this step on the part of the government may point to its interest in managing to curb the growing wave of public protest by strengthening a mechanism of repression rather than addressing the problem. This is precisely the way in which the countries where the right to freedom of assembly and manifestations is not adequately protected – for example, [Russia](#) and [Belarus](#) – have developed their legislation and where introducing harsher sanctions was aimed at having a chilling effect on the offences related to civic assemblies and manifestations.

We call on the Parliament of Georgia to reject this initiative and, given the harsh economic conditions, refrain from increasing the fines.

1 Swearing and cursing in public places, harassment of citizens and other similar actions which violate public order and disturb citizens.

2 World Economic Outlook Database, IMF, available: <https://cutt.ly/obwui1>

3 European Commission for Democracy through Law (Venice Commission) and Office for Democratic Institutions and Human Rights (OSCE/ODIHR), Guidelines on Freedom of Peaceful Assembly (3rd Edition), 8 July 2019, para. 36 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2019\)017-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2019)017-e)