

**Tamar Khintibidze**  
**(Small grant)**

## **Patrol Police and drivers – system of fines and appeals**

Administrative fines are prescribed by the policemen of Patrol Police Department, which is a division under the Ministry of Internal Affairs (MIA). After the “Rose Revolution” the structure of the MIA, as well as its staff policy has changed. According to the new staff policy, it isn’t necessary to have special education or preparation to become a Patrol Police officer. After accepting for employment, the new policemen are to pass an intensive six-week training, which includes special physical preparation, training in criminal law, criminal procedural code, road traffic and signs; administrative law-breakings, prescribing penalties for law-breaks, etc. However, many argue that the six week period is not enough to become proficient in all the skills to work properly.

The main document for recording road traffic violations is a report on administrative law-breaking. The legal status of this report isn’t yet defined by the legislation, which creates some problems in the case of appealing. The report has all characters of individual administrative legal act and it would be better, if legislature clearly defines it as such.

For filling the report, there must be following dates: place and time of filling the report; the post and name of the police officer; dates concerning the person committed law-break; place and time of law-breaking; legal act; responsibility; witnesses; explanation of law-breaker.

According to the information of Patrol Police Department, during the period of January 2006 – April 2006, there were prescribed 113 266 fines, with the amount of 2 548 240 Georgian Lari.

The structure of the report on administrative law-breaking is elaborated in the way to make fewer mistakes. Mainly there are mistakes in conforming law. There are the following cases that mostly are appealed: parking and stopping cars, passing on red lights, traffic accidents.

There are two ways of appealing fines prescribed by police:

1. Hierarchical system – appealing to the upper police officer
2. Appealing to the court.

Hierarchical system means that driver appeals to the ranking policemen. In the Patrol Police Department of the MIA of Georgia, there is special division of monitoring, which works on appeals. The driver fills special form, writes his opinion, evidence, and the police officer discusses the situation, what has happened, road signs, the action of Patrol Policemen and so on, and makes his own decision. There is no special payment or fee for appealing to the ranking police officer.

According to the information of Patrol Police Department, from 113,266 cases of fines, by hierarchical system there have been registered only 106 appeals and only 12 decisions have been made in favor of drivers.

The legislation, which regulates the appellation of fines prescribed by police, is not perfect and there are some problems that must be improved.

These problems mainly rise because the legal act that regulates the procedures of appealing fines in courts (Code on Administrative Law-Breakings) was adopted in 1984, and it contradicts modern legal principles. The Code on Administrative Law-Breakings for the term of appellation states only 10 days, while according to the Administrative Procedural Code of Georgia, the term of appealing to the court is one month.

Also, the Code on Administrative Law-Breakings states that while appealing a fine in court, the decision of the court of first instance is final, and doesn't permit the case to go through further appeals. According to the Constitution of Georgia, each person has the right to appeal to the three stages established in the judiciary system. That system is designed to guarantee justice, and prohibition against allowing cases to the upper stages is considered by many to be unconstitutional.

The next problem states in the fees of judgment. According to the Code on Administrative Law-Breakings, appeal to the Administrative Court is free of charge, but court practice shows different: during 2005-2006 there were three cases on fines issued by police in the Administrative Court of Tbilisi. The appealed cases all concerned running red lights, which according to the Administrative and Civil Procedural Codes of Georgia, should result in a fine of 20 lari. In the three cases, however, the judges prescribed punishment of 30 lari. The judges say that they acted according to the law, according to the Administrative Procedural Code of Georgia and Civil Procedural Code of Georgia. These laws permit judges to state the judgment fees independently, that violates the right of suitor to know in advance how much he/she must pay for the court hearing. This problem arises because there is no special law which would define fees for court hearings, while appealing the fines.

#### Recommendations:

1. Define the legal status of the report on administrative law-breaking as an individual administrative legal act;
2. Clearly define the terms of appealing;
3. Increase the time of training of policemen;
4. Clearly state, if there is any fee for appealing, and how much;
5. Change the norm in the Code on Administrative Law-Breakings which states that the decision of the court of first instance is the final decision while appealing fines.