The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

Georgia's Midnight Express

By Paul Rimple

January 11, 2012

Crossing the Georgian border from Armenia or Azerbaijan, the first thing you notice, besides the new customs buildings, is a sense of legitimacy. You do not have to jump through hoops to get a visa, nor will you be slapped with arbitrary crossing fees. You will not see cops slouching at the side of the road with whistles in their mouths and batons in their hands. Georgian cops drive new patrol cars and write tickets for only actual infractions, just like police in the West.

Behind the Western veneer, however, is a judiciary that resembles Georgia's neighbors. You do not want to be accused of even breaking a little law in Georgia, particularly if you are a political activist.

Human Rights Watch released a report on Jan. 4 that reveals how Georgia's Soviet-era Code of Administrative Offenses still fails to meet the country's human rights obligations, even after being redrafted last year.

Administrative offenses are misdemeanors that used to carry a maximum punishment of 30

days, but after large-scale opposition protests in 2009 the law was fortuitously amended to 90 days. According to international law, such punishment constitutes a criminal penalty, or felony, and therefore you should have the same due process rights as a felony defendant. But Georgia's administrative code has loopholes that allow police to throw you in a holding cell without telling you what you were arrested for.

You have the right to legal counsel at the hearing, but the code does not state whether you have that right from the moment of your arrest. The police are not necessarily obliged to inform you of your rights, and they may not let you make a phone call. It's up to your family to find out that you have been detained and to hire a lawyer, who must then try to find where you are being held.

Administrative trials are swift 15-minute affairs, where the court extensively relies on police testimonies. Because the accused is assumed in advance to be a troublemaker, the judge will not notice the wounds he has sustained during the detention process. Furthermore, a defendant's lawyer will not have had time to prepare a defense, especially if he was appointed by the court. Of course, the judge may decide the accused doesn't need a lawyer at all, even if he is a minor.

Giorgi Lapiashvili, 17, was arrested in May after calling Georgian President Mikheil Saakashvili a "murderer" at a theater the president was present at. Police refused Lapiashvili's request to call his family or a lawyer. During the trial, the judge also denied the boy's request to have his parents and lawyer present and appointed the arresting officer to represent him instead. Lapiashvili was fined 400 lari ($240).

In Georgia, felons serve time in prison while misdemeanor offenders serve their sentences in temporary detention facilities, which were designed to hold people for 72 hours and are often in conditions akin to Midnight Express.

Armenia and Azerbaijan make no pretenses about egalitarian reform, so we are not surprised when opposition activists, journalists or even satirists are imprisoned on bogus charges. But Georgia is different. It prides itself on being the region's leader of reform, and if you look in the right places you can see evidence of this. But the day Georgia truly distinguishes itself from its neighbors is when Lady Justice will finally be blindfolded and holding a set of scales instead of the current hammer and sickle.

Paul Rimple is a journalist in Tbilisi.

Original url: https://www.themoscowtimes.com/2012/01/11/georgias-midnight-express-a11809