

## **Conflict and Competition of Duties in Georgia: Judicial and Scientific Aspects**

Adam Makharadze<sup>1</sup>

### **Abstract**

This research delves into the scientific and judicial aspects of duty conflicts in Georgia's criminal law doctrine. Employing various methodological approaches, including comparative legal analysis and a systematic framework, it scrutinizes critical elements like the prohibition of repressive analogy, the clear distinction between duty competition and conflict, and the influence of case law. The study identifies challenges within modern penitentiary practices, emphasizing the importance of upholding human rights, freedoms, and criminal law norms in Georgia. The findings have the potential to enhance comprehension of compliance with criminal law and risk mitigation in the country's legal landscape, emphasizing the need for respect of fundamental rights and the evolution of legal practices for a more just and transparent legal system.

**Keywords:** supra-legal principles, omission, analogy of law, proportionality of punishment, human rights.

### **Introduction**

Ensuring fairness and respect for human rights in criminal justice requires systematic effort on the part of all actors in the legal system, as well as public support and awareness of the importance of these issues. Conflict of duty as a circumstance excluding criminal liability is not specifically regulated in the Criminal Code of Georgia (1999) (CCG). Therefore, it is first of all necessary to determine the scope and general expediency of criminal liability of an agent in case of breach of duties. When reviewing Georgian legislation in this area, it was found that according to Article 7 of the current CCG (Criminal Code of Georgia, 1999), the following actions can be considered a crime (Criminal Code, 1999). An act, regardless of how grave and unacceptable it may be, is not a crime if it is not provided for in the Criminal Code. Such an interpretation of the law reflects one of the basic principles of *Nullum crimen sine lege* (2023) ("No crime without law"). This principle is also recognised in Georgian law, as it is considered a principle of justice and does not impose restrictions on the exercise of state sovereignty. However, there are not always legislative levers of influence on violators, as not all legal acts are sufficiently detailed and not all of them are fully implemented (Yerkin et al., 2018).

---

<sup>1</sup> Faculty of Law and Social Sciences, Batumi Shota Rustaveli State University, 6010, 32/35 Rustaveli/Ninoshvili Str., Batumi, Georgia. [adam\\_makharadze34@yahoo.com](mailto:adam_makharadze34@yahoo.com)

D. Legashvili (2016) considered the rule of concluding a contract in favour of a third party based on an independent claim under Georgian law. This is another important aspect of determining the relationship between the rights and obligations of the parties, for example, a contract. It is also necessary to establish the boundaries of the rights of each party to a legal relationship and to justify the expediency of broad interpretations to ensure the proper realisation of the goal of all participants. In recent years, discussions have also intensified on the issue of signs of a criminal act following the provisions of the CCG (Criminal Code of Georgia, 1999). In particular, K. Tsikarishvili (2022) analyses and describes the mandatory elements of the crime of human trafficking under the CCG (Criminal Code of Georgia, 1999). The scholar writes that the crime of human trafficking consists of five main elements:

- sale and purchase (or other illegal transaction);
- recruitment;
- coercion (or deception);
- restriction of the victim’s freedom/control;
- exploitation.

However, it is important to note that none of these elements are mandatory for the crime of trafficking in human beings. In addition, the Georgian law on trafficking in human beings covers too wide a range of issues and needs to be amended, as, on the one hand, it does not fully comply with the international legal definition of trafficking in human beings, and, on the other hand, it overlaps with other crimes already covered by other *corpus delicti* under the CCG (Criminal Code of Georgia, 1999).

The CCG (Criminal Code of Georgia, 1999) blocks the state from imposing any punishment on a person, even in the case of extremely serious and unacceptable behaviour. Criminal acts that are not provided for in the Criminal Code often provoke a strong public reaction, so maintaining a balance in this matter is extremely important (Baikin et al., 2017). Accordingly, to maintain social peace, the state may try to apply to the “criminal” a punishment that is inherently the most severe measure. The adoption of the analogy of law threatens the state as an institution of justice by turning into a mechanism of revenge, and then punishment may lose its practical usefulness, as A. Makharadze (2021) believes. This approach prevents gross and unjustified interference by the state in ensuring fundamental human rights and freedoms. However, Georgian legislation allows for analogy in favour of the subject. This applies to the circumstances of punishment and acquittal, which are regulated by Articles 32 and 38 of the CCG (1999). Through these provisions, the principle of “super lawfulness of an act” is promoted by using the

analogy of law, which may be an act that is provided for in the Criminal Code, but committed under conditions that are considered to be super lawful or illegal circumstances. Such actions are not explicitly defined in the Code, as they relate to necessary defence, in particular, the detention of a criminal, but judges, when considering such cases, are obliged to apply the analogy of law and release a person from criminal liability, even if his or her behaviour formally corresponds to an act described in the CCG (Criminal Code of Georgia, 1999; Gogrichiani, 2022). However, the scholar does not pay enough attention to the practical application of the analogy of law, which is important for understanding the whole picture. It is also important to consider the general approach used to apply the conflict of duties in Georgian legislation and case law.

In the case of a sudden intersection of legal interests, the court often finds itself in a theoretical stalemate, which leads to an artificial solution. For example, in legal systems based on case law, such as Anglo-American systems, the problem may be less destructive, as the creation of a precedent helps to resolve the issue of violation of the principle of legal equality (Manins, 2023). In the Romano-Germanic legal systems, whose judicial system does not have such a mechanism, the solution is found in the official commentaries to the criminal code (Shukesheva et al., 2018). In other words, in the first case, the source of artificial systematisation is judicial precedent, and in the second case, the commentary on the criminal code. This approach has nothing to do with a scientific approach to solving the problem. A truly theoretical solution is to index the protected interests (Sabitova and Shaizadanova, 2016). Thus, as follows from correlative indexation, in the case of a dualistic intersection of immediacy and weakness, the factor of paramount importance should be stated mathematically. Having analysed the works of Georgian authors over the past few years, and given the insufficient coverage of this issue, the author aims to comprehensively study and analyse the scientific and judicial aspects of conflicts and conflict of duties in the criminal law doctrine of Georgia.

### **Materials and Methods**

The selected methods of scientific cognition allowed for a comprehensive study of the research problem and ensured the relevance of its results. The dialectical method became the methodological basis for searching for information and outlining the general characteristics of the legal framework for conflict and competition of duties in Georgia. The use of the dialectical method also allowed for a general description of the multidimensional nature of the legal nature and the foundations of criminal law in general.

The analysis method was used to thoroughly study:

–the scientific developments in the field of origin and understand the essence of social and legal disputes, identification of conflicts and gaps in law, and their delimitation;

–understand the concepts of “conflict” and “competition of duties”, their features and characteristics, as well as identification and study of the causes and factors of conflicts in the criminal law of Georgia among the general causes of conflicts in law in general;

–analysis of the types of conflicts among the general classification of conflicts, etc.

Studies of scholars in the field of conflict and competition of duties in Georgia, as well as inconsistencies in the provisions of legal acts regulating these legal relations and related to the issue under study, were investigated using the analysis method. The synthesis method was used to review the provisions of the CCG (1999). The method of analysis was also used to study the general theoretical and methodological foundations of legal regulation of the conflict and competition of duties in Georgia, as well as their legal nature. Using the methods of generalisation and abstraction, as well as the methods of synthesis and analysis, the author managed to study not only the main content but also the specifics of the criminal law and practice on conflict and competition of duties in Georgia. In particular, using the general scientific systemic-structural approach, the author examines the main aspects of the study and describes the priority areas for changes in the legal regulation of conflict of laws and competition of duties in Georgia. It is the application of the systemic-structural approach as a general scientific method that made it possible to identify the peculiarities, problematic aspects, and the state of protection of legal norms in Georgian legislation.

The historical, comparative, and formal legal methods of research were employed to analyse the stages and processes of formation and further development of legal regulation of conflict and competition of duties in Georgia. An interdisciplinary approach to scientific research has made it possible to study the peculiarities of criminal law and judicial regulation of criminal cases.

The normative-dogmatic method of research was used to examine the provisions of the regulatory framework containing provisions on conflict and competition of duties in Georgia. The comparative legal method was used to study and compare the provisions of legislation in Georgia. In addition, the hermeneutic and comparative methods were used to form a concept of understanding the specifics of the concepts of conflict and competition of duties in Georgia.

The provisions on the interpretation of law as a process of clarifying the essence of legal provisions, regulations and other acts based on the legal doctrine and values of the legal culture of laws are highlighted. Using the logical and

semantic method, the author describes, systematises, and generalises the terminology of the subject matter under study, in particular, the definitions of the concepts of “conflict”, “mathematics of criminal law”, “theoretical impasse”, “supra-legal principles”, “indirect intent”, “analogy of law”, “punishment”, etc. The applied methodological framework allowed for an in-depth study of the subject matter of the study and formulation of the basic principles of understanding the conflict and competition of duties in Georgia.

### **Results**

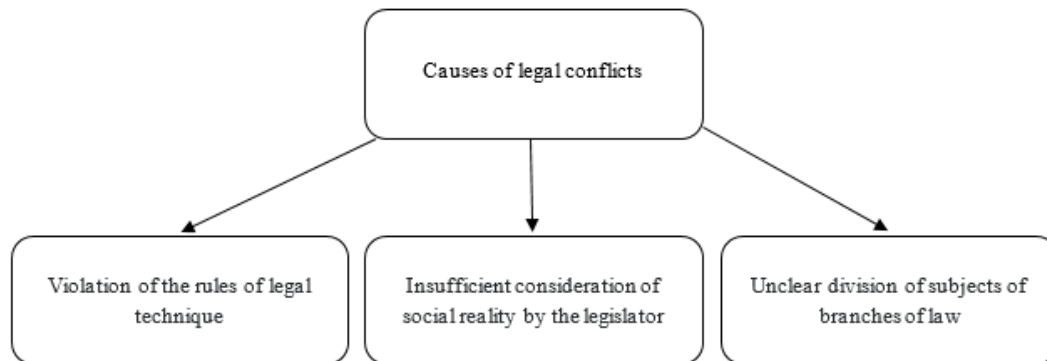
Conflicts and competition of duties are significant in modern legal systems of the world, including Georgia. To understand the peculiarities of legal conflicts, it is necessary to classify them. Depending on the forms of legal activity in the course of which legal conflicts arise, there are conflicts in law application and conflicts in law-making that may arise between different provisions of legislation. This includes conflicts between the country’s legislation as a whole and other source of law, inconsistencies between individual acts of interpretation, as well as contradictions between different elements of the legal system, such as the actual practice of applying the law and legal science itself. Depending on the legal effect of regulations containing contradictory norms (vertical conflict), there are contradictions between national and international legal norms, as well as contradictions between national legal norms of national legislation regulating the same issues (Lenger, 2016; Madiyarova et al., 2018).

All participants in social relations regulated by law, without exception, must respect and comply with conflict of laws rules to ensure the rights of all parties to legal relations. This is the basis of the legal order in every country in the world, including Georgia. As A.Ye. Tokishyeva (2013) noted, the state must be able to resolve conflicts between legal norms and ensure their systematic and consistent interpretation to maintain the legal order and development of society. Activities to ensure law and order and the rights of citizens are one of the key functions of the state. All state authorities, including the legislative, executive, and judicial branches, play a role in this process. Ensuring accurate and full implementation of the state’s legislative norms by all participants in social relations to maintain law and order, protect the rights and freedoms of citizens and ensure the stability and development of society is extremely important (Shalbolova et al., 2021). At the same time, it is very difficult to ensure accurate and complete implementation of mandatory rules and regulations if they contradict each other. Clear and strict implementation of contradictory and mutually exclusive rules necessarily violates the rights of a certain subject of legal relations, which contradicts the meaning of legal regulation. Legal conflicts are indeed particularly dangerous in the context of

a clash of legal norms. They can undermine the stability and consistency of the legal system, create uncertainty and contradictions in the legal order, and threaten the rights and freedoms of citizens. Effective resolution of legal conflicts is necessary to preserve the legal order and stability of the whole society (Babak et al., 2007).

As of today, there are many approaches to the definition of a legal conflict in legal science. The common understanding of a conflict is “a clash/inconsistency of legal norms” (Milestones 2023..., 2023). A legal conflict can create a conflict between current legislation and attempts to change or introduce new rules that do not comply with current legislation. Resolving legal conflicts is important for ensuring legal order and stability in the state. The traditional interpretation of a legal conflict as an inconsistency in the rules governing one issue is an important aspect of identifying and resolving legal issues. The notion of legal conflicts and conflicts allows for a deeper look at various aspects of the legal system, including rules, legal practice, and relations between legal entities. Classifying legal conflicts and conflicts is an important step in understanding and managing them. It helps to identify their roots, nature, and possible solutions. Such conflicts may exist between domestic legal acts and between national and international legal norms. Understanding and analysing legal conflicts is important for improving legislation and ensuring the rule of law and justice in society (Dmytriiev and Dobrovanov, 2021).

The classification of conflicts helps to distinguish between different types of conflicts in the legal system and to identify their nature and sources. Conflicts, including legal conflicts, can have both positive and negative consequences, and it is indeed an important function of legislation and public authorities to resolve and manage them. On the one hand, conflicts can stimulate social and legal change, and contribute to the development of new legislative initiatives. On the other hand, if conflicts remain unresolved or are expressed in insufficient compliance with the law, they can lead to social tensions and disorders, and violations of citizens' rights and freedoms. Ensuring the rule of law and the prohibition of legal conflicts through proper resolution and harmonisation of norms is the main goal of legislation and state activity. The rights and obligations of all citizens must be protected and regulated by the applicable law (Kozłowski et al., 2017). The process of identifying a conflict in legislation can be divided into two main stages: identification of differences or contradictions between at least two legal provisions. checking whether these provisions relate to the same issue. The grounds for asserting the existence of a conflict in legislation arise only if it can be proved that different rules regulate the same issue. The causes of conflicts can be divided into three groups in Figure 1.



**Figure 1.** Causes of legal conflicts

Source: compiled by the author based on K.W. Abbott et al. (2000).

To prevent such conflicts and to correct deficiencies in legislation, it is important to improve legal techniques and review and adapt legislation to current social and economic changes. Cooperation between legislators, law enforcement agencies and civil society can help to address these issues and improve the quality of legislation.

As noted earlier, the causes of legal conflicts are both objective and subjective, so the conflicts themselves cannot be eliminated once and for all. The use of ambiguous terminology in legal acts can lead to misunderstandings and legal conflicts. The terminology in law and its meaning may change over time, driven by the development of society, technological changes, political and cultural shifts, as well as new requirements and realities of social life (Zhanbulatova et al., 2020). It is important to keep track of changes in terminology and meanings of terms in the relevant legal context. Scientists are constantly developing new forms, methods, and ways to resolve conflicts in legal provisions. These developments cover a wide range of legal instruments aimed primarily at preventing, correcting, and overcoming conflicts between legal provisions in Georgian legislation.

Analogy of law in criminal law is an important topic for discussion in the context of the Georgian legal system. It may arise when a particular situation or action is not covered by clear criminal law provisions. In such cases, courts and lawyers may look for analogies with similar situations or legal norms that already exist. The state interferes even more with human rights when a crime occurs, and the violation of these rights creates a temptation to apply an unjustifiably harsh method of punishment (Makharadze, 2022). In this way, punishment becomes not only repressive but also deprived of any practical benefit. That is why the criminal codes of all civilised countries of the world apply the principle of “*nullum crimen sine lege*” (Zavada, 2018). If an act cannot be considered a crime because it is not

provided for in the Criminal Code or other laws, and yet it violates human rights or is incompatible with the general norms of society, there are other ways to resolve such situations (civil litigation, administrative proceedings, and punishment, in some states there is a possibility to appeal to the ombudsman) (Doszhan et al., 2020).

The criminal law of Georgia, like many other countries, contains a system of elements of crime, which include the objective composition of the act, the subjective side (guilt), and the legal misconduct (unlawfulness). The use of the principle of “*nullum crimen sine lege*” indeed prohibits the application of legislation by analogy or employing invented crimes. This principle is a guarantee of human rights before the state and prevents arbitrary prosecution or application of the law in cases where it is not provided for by specific legislative acts. Thus, the acceptance of the principle that “there is no crime without law” ensures that human rights and freedoms will be respected and protected, and a clear basis for any criminal prosecutions or punishments can be demanded. Georgian criminal law and criminal law theory, as well as dogma, recognise a three-stage system of crime. In addition, the CCG (1999) defines circumstances precluding wrongdoing and guilt, in particular, Chapter VIII deals with circumstances precluding wrongdoing and guilt, playing an important role in protecting human rights and guaranteeing fair criminal proceedings. While Chapter IX deals with circumstances excluding guilt. With these rules, a fair consideration of each case can be ensured, considering the individual characteristics of the situation (Criminal Code of Georgia, 1999).

Exemption from criminal liability due to age, mental illness, limited legal capacity, mistake in law, or execution of an order or instruction are circumstances that exclude the criminality of an act (Babak et al., 2020). Considering Articles 32 and 38 of the current CCG (1999), it is possible to conclude that the legislator has provided for the possibility of using the principle of analogy of law in determining the unlawfulness of acts. The main idea of these articles is that if an act committed under certain circumstances meets the requirements of lawfulness and innocence, it is not unlawful. This means that when circumstances are not explicitly provided for in the CCG (1999), they can be used as an analogy of the law to determine the unlawfulness of acts. However, it is important that these circumstances fully meet the requirements of lawfulness and innocence. The application of analogy of law is recognised as a systemic approach, which stipulates that criminal liability cannot be applied if the act is not unlawful from the point of view of fairness and justice. This is an important element of Georgian criminal law doctrine that helps to avoid excessive criminal liability and ensure fairness in the criminal system. The principle of analogy of law provides for the possibility of applying criminal law analogy to resolve cases where an act committed under certain circumstances is not directly



provided for by the Criminal Code, but it is not unlawful or culpable from the point of view of fairness and justice. An important condition for the application of the analogy of law is the full compliance of actions with the circumstances exempting from unlawfulness or guilt. The judge may apply the analogy based on the development of judicial legislation and consider new circumstances that were not previously provided for in the CCG (1999). This helps to ensure fairness in court decisions and to avoid excessive criminal liability in situations where the act does not violate the principles of fairness and justice.

### **Discussion**

The use of the analogy of law allows courts to avoid excessive criminal liability in situations where the act is not unlawful. It contributes to the development of criminal law doctrine, as well as to the consideration of new circumstances and principles of finding the accused not guilty in the light of changing social and legal realities. The approaches and concepts developed within the framework of Georgian criminal law theory may bring significant innovation to the legislative framework and practice of law application in the future. They reflect the desire to ensure justice and protection of human rights in the context of criminal law issues (Makharadze, 2021, 2022). However, the study found that the analogy of law should also be understood as the application of general principles of law to controversial issues that are not regulated by any specific legislative provision.

S. Mayson (2020) considers distinguishing criminal law from other laws to be an important aspect of criminal law and the legal system in general. This means that criminal law should be clearly defined, incorporated into a separate document (e.g., the Criminal Code), and have its principles and procedures. The research results emphasise that separating criminal law from other laws helps to ensure clarity and predictability, which are key principles of the legal system. It also helps determine when and under what circumstances criminal liability arises. In this case, other laws and regulations may interact with criminal law in certain cases, but it is important to have separate rules governing criminal liability and procedures (Teymurova et al., 2023; Bondarenko and Galich, 2013). This approach promotes fairness, human rights and legal certainty in criminal proceedings. However, this is a rather one-sided interpretation of legal theory, and in fact, the issue of conflict and contradiction of liability in criminal law has many more vectors that need to be investigated (Shahini et al., 2023). Thus, the distinction of criminal law from other laws is a necessary part not only of the theory of criminal law but also of the reform of criminal justice in Georgia.

Despite the importance of such professional discussions, there is no unanimous opinion among contemporary Georgian scholars and reformers as to

what makes criminal law truly unique. An active debate has developed around the statement of R.A. Duff (2010) that criminal law is unique because it condemns certain actions on behalf of the state and is essentially a mechanism of collective condemnation. This statement describes the uniqueness of criminal law only in terms of its function for the state, but in reality, it has a much greater impact not only on a particular state but also on society and the global legal community as a whole. Therefore, it is fair to criticise these views of various scholars, in particular, F. Leverick (2009) states that given the transformational role of the works of R.A. Duff (2010) in the field of criminal law theory, he proposed a new and promising approach to understanding the personality of the offender, and also stirred up a wave of discussions on a growing range of issues related to criminal law. The F. Leverick (2009) work had a much greater effect on the process of understanding the concepts of conflict and competition of duties, as they raised a wave of scientific discussions on this issue.

For many purely economic damages, criminal law does not distinguish between private and public damages (Imasheva et al., 2018). This important aspect was described by H.-B. Schäfer and F. Florian (2022) in their study. According to the law, all damages should be compensated according to the liability of the parties, including negligence. A comparison of the rules in different European codifications shows that many damages remain uncompensated if a resource is damaged, causing public loss without violating property (Bissenov et al., 2014; Bondarenko and Lavrinovich, 2007). In contrast, many civil codes in continental Europe contain a broad general provision on fault liability (Nurtazina et al., 2015; Khussain et al., 2022). The exclusion of damages that do not fall within the scope of negligence liability is left to case law. Thus, a comprehensive general fault liability provision is less suitable than an unambiguous extension of negligence liability to all types of damage to resources that cause social loss, regardless of whether property rights are violated (Sinaj et al., 2023; Cherunova et al., 2021).

The main forms of legal argumentation today are precedent and analogy, and they are of great importance in the development of legal doctrine and court decisions. G. Lamond (2006) believes that the greatest contrast is between personal reasoning, where neither precedent nor analogy is of equal importance. However, the scientist does not describe in detail the factors that influence the way of decision-making. In the course of this study, it was found that they include, in:

- particular precedents and stability of law (previous court decisions and legal practice may influence judges' decisions in new cases);
- optimality and fairness of the decision (the judge may consider the optimality and fairness of the decision);

- public expectations and internal values (the judge’s decision may also influence the expectations of the public values and beliefs);
- moral and ethical issues (decision-making may include consideration of moral and ethical aspects of the case);
- influence of politics and public opinion (especially in politically sensitive cases);
- the law and legal technique (court decisions must comply with the law and legal technique, and this is an important constraint for judges).

It is important to consider that judges’ decisions must be reasoned and based on the law and the circumstances of the case. Lack of predictability can lead to legal injustice, but at the same time, judges should be able to adapt the law to new circumstances and develop legal doctrine (Komilova, 2021; Chen et al., 2022).

According to the current criminal doctrine of Georgia, conflict of duty is an exculpatory circumstance. This concept is essential as it can be used to address circumstances in which a person who has committed certain acts may be excused due to a conflict of duties. Article 32 of the current CCG (1999) states that “it shall not be an unlawful act of a person who has committed the acts provided for in this Code in the presence of other circumstances”, but these circumstances are not specified by name in the Code.

In criminal law, omission can lead to criminal liability if a person has a duty to act in certain circumstances but fails to fulfil that duty (Vela and Sinaj, 2023; Mansurova et al., 2018). This can usually be due to professional, official, or other types of duties that arise from law, contract, or other legal circumstances. In this case, a person may be held criminally liable for inaction. These are various sources that can determine a person’s obligation to act in a certain way or comply with certain norms. In the event of a conflict of duties, the judge must analyse all these sources, consider the circumstances of the case and determine which duty takes precedence in a particular situation (Shalbolova et al., 2020). The principle of analogy of law can be useful in these cases as well, helping to resolve the conflict and reach a fair decision. The moral duty of assistance and solidarity is a really important aspect of criminal law. It reflects the principles of humanity and solidarity in society.

### **Conclusions**

Understanding the difference between competition of duties and conflict of duties is important for the adequate application of Georgian criminal law. In both cases, it is important to consider the content of the duty and the value of the legal benefits. A conflict of duties arises when two or more legal benefits are simultaneously at stake and two or more duties must be fulfilled at the same time.

In such a situation, it is important to analyse the circumstances of the case and the content of the duties to resolve the conflict. This can be a difficult task, and the judge has the opportunity to develop a judicial law and consider the principle of analogy of law as stated in Article 32 of the Criminal Code of Georgia. The court's decision as to which actions should be prioritised in situations of competing duties should be reasoned and consider the specifics of each case. Resolving issues of competition of duties should be based on the hierarchy of values of duties and legal benefits. A decision on the legitimacy of a duty must be consistent with the principles of fairness and consider all relevant circumstances that affect the particular situation.

Following the research results, it was established that the criminal law of Georgia prohibits the use of the principle of analogy of law against a person and allows the application of this principle only in the latter's favour. Resolving a conflict of duties in Georgian criminal law requires consideration of various aspects, such as the equivalence and hierarchy of duties, their significance, and compliance with the law and moral standards. Breach of duty in the context of a conflict of duties or a conflict of interest can be a complex task, and the court must be able to take all these factors into account when making its decision. The concept of "extra-legal circumstances" correctly reflects the fact that such situations may arise in individual cases and may not always be covered by clear provisions of the Criminal Code. The judge has the right to decide cases that consider the specifics of a particular situation and personal circumstances, using the principle of analogy of law to ensure fairness and compliance with the law. In criminal law, when dealing with such situations, the court must analyse the differences in the duties and responsibilities of different parties and take this inequality into account when making decisions. This is an important aspect of criminal law, as it allows for the consideration of the specific circumstances of each situation and ensures fairness in criminal proceedings. Further research in this area could focus on the correct reasoning for court decisions and consider broader possibilities to ensure a fair outcome of the investigation. Given all of the above, the best scientific solution to the problem is the legal indexation of technical criteria and the improvement of the penitentiary system in Georgia.

## References

- Abbott, K.W., Keohane, R.O., Moravcsik, A., Slaughter, A.-M. & Snidal, D. (2000). The concept of legalization. *International Organization*, 54(3), 401-419.
- Allen, J.G. (2021). Law's virtual empires: Game analogies and the concept of law. In: Jorge Luis Fabra-Zamora, Gonzalo Villa Rosas (Eds.), *Conceptual jurisprudence: Methodological issues, classical questions and new approaches* (pp. 267-293). Cham: Springer.
- Arsoshvili, G. (2021). Restoring justice as purpose of punishment and its interrelation with the resocialization of criminal. *Journal of Law*, 1, 24-40.
- Atkinson, K. & Bench-Capon, T. (2019). Reasoning with legal cases: analogy or rule application? In: *ICAIL '19: Proceedings of the Seventeenth International Conference on Artificial Intelligence and Law* (pp. 12-21). New York: Association for Computing Machinery.
- Babak, V., Kharchenko, V. & Vasylyev, V. (2007). Using generalized stochastic method to evaluate probability of conflict in controlled air traffic. *Aviation*, 11(2), 31-36.
- Babak, V.P., Babak, S.V., Myslovyh, M.V., Zaporozhets, A.O. & Zvaritch, V.M. (2020). Simulation and software for diagnostic systems. *Studies in Systems, Decision and Control*, 281, 71-90.
- Baikin, A., Shalbolova, U. & Kazbekova, L. (2017). Regional diversification of entrepreneurial activity in the Republic of Kazakhstan. *Espacios*, 38(46), 35.
- Bissenov, K.A., Uderbayev, S.S. & Shalbolova, U.Z. (2014). Environmental and economic efficiency of using insulated wood concrete in building based on agricultural and industrial wastes. *Actual Problems of Economics*, 151(1), 304-311.
- Bondarenko, I.N. & Galich, A.V. (2013). Electrodeless lamps based on the resonant irregular microwave structures. *CriMiCo 2013 - 2013 23rd International Crimean Conference Microwave and Telecommunication Technology, Conference Proceedings*, 1, 1063-1064.
- Bondarenko, I.N. & Lavrinovich, A.A. (2007). Investigation of the thin-film high-temperature superconductivity coplanar line. *Telecommunications and Radio Engineering (English translation of Elektrosvyaz and Radiotekhnika)*, 66(7), 597-605.
- Chen, T.-C., Ibrahim Alazzawi, F.J., Mavaluru, D., Mahmudiono, T., Enina, Y., Chupradit, S., Al Ayub Ahmed, A., Syed, M.H., Ismael, A.M. & Miethlich, B. (2022). Application of Data Mining Methods in Grouping Agricultural Product Customers. *Mathematical Problems in Engineering*, 2022, 3942374.

- Cherunova, I.V., Stefanova, E.B. & Tashpulatov, S.Sh. (2021). Development of an algorithm for forming the structure of composite fiber insulation with heat-accumulating properties in clothing. *IOP Conference Series: Materials Science and Engineering*, 1029(1), 012041.
- Collier, C.W. (1988). Precedent and legal authority: A critical history. *Wisconsin Law Review*, 1988, 771-825.
- Conway, G. (2010). Conflicts of competence norms in EU law and the legal reasoning of the ECJ. *German Law Journal*, 11(9), 966-1005.
- Cover, R.M. (1986). Violence and the word. *Yale Law Journal*, 95(8), 1601-1629.
- Criminal Code of Georgia. (1999). Retrieved from <https://matsne.gov.ge/en/document/download/16426/157/en/pdf>
- Dgebuadze, G. (2022). Horizontal and vertical grounds for establishing responsibility in international criminal law. *Journal of Polish-Georgian Law*, 2, 77-89.
- Dmytriiev, D. & Dobrovanov, O. (2021). Post-COVID pain syndrome. *Anaesthesia, Pain and Intensive Care*, 25(4), 505-512.
- Doszhan, R., Nurmaganbetova, A., Pukala, R., Yessenova, G., Omar, S. & Sabidullina, A. (2020). New challenges in the financial management under the influence of financial technology. *E3S Web of Conferences*, 159, 04015.
- Duff, R.A. (2010). Towards a theory of criminal law? *Proceedings of the Aristotelian Society, Supplementary Volumes*, 84, 1-28.
- Farrar, J.H. (1997). Reasoning by analogy in the law. *Bond Law Review*, 9(2), 149-176.
- Fogelson, Y. (2013). Contracts for the benefit of a third party: The problem of classification. *Higher School of Economics Research Paper No. WP BRP 23/LAW/2013*. <https://dx.doi.org/10.2139/ssrn.2304722>
- Gabaraevi, I. (2017). Liability for commission of rape with omission. *Journal of Law*, 2, 183-194.
- Gard, A.S. (2005). Adjustment of claim for collision liability and division of recovery – Single or cross liabilities? *Gard*. Retrieved from <https://www.gard.no/web/updates/content/51675/adjustment-of-claim-for-collision-liability-and-division-of-recovery-single-or-cross-liabilities>
- Gegelia, T. (2016). Prohibition of uncertainty of the law in contemporary criminal law. *Constitutional Law Review*, 10, 114-127.
- Georgia Code. (2020). Retrieved from <https://law.justia.com/codes/georgia/2020/>
- Gogrichiani, Z. 2022. The issue of organized group in criminal law. *Diplomatia da Samartali*, 1-2(7), 273-277.

- Imasheva, G.M., Dolzhenko, N.A., Anayatova, R.K. & Doronina, Y.V. (2018). Commercial use of aircraft based on safety risk. *Journal of Advanced Research in Law and Economics*, 9(8), 2615-2621.
- Khussain, B., Brodskiy, A., Sass, A., Rakhmetova, K., Yaskevich, V., Grigor'eva, V., Ishmukhamedov, A., Shapovalov, A., Shlygina, I., Tungatarova, S., Khussain, A. (2022). Synthesis of Vanadium-Containing Catalytically Active Phases for Exhaust Gas Neutralizers of Motor Vehicles and Industrial Enterprises. *Catalysts*, 12(8), 842.
- Kischel, U. (2019). The context of common law. In: *Comparative law* (pp. 227-358). Oxford: Oxford University Press.
- Komilova, N.K. (2021). Territorial analysis of medical geographical conditions of Uzbekistan. *Current Research in Behavioral Sciences*, 2, 100022.
- Kozłowski, P., Parfieniuk-Kowerda, A., Tarasik, A., Januszkiewicz, M., Czauż-Andrzejuk, A., Łapiński, T.W. & Flisiak, R. (2017). Occurrence and clinical characteristics of hepatocellular carcinoma in the north-eastern Poland. *Przegląd Epidemiologiczny*, 71(3), 405-415.
- Lamond, G. (2006). Precedent and analogy in legal reasoning. *Stanford Encyclopedia of Philosophy*. Retrieved from <https://plato.stanford.edu/entries/legal-reas-prec/>
- Law of Georgia on Normative Acts. (2009). Retrieved from <https://matsne.gov.ge/en/document/download/90052/12/en/pdf>
- Legashvili, D. (2016). Peculiarities for definition of the essential conditions of the agreement concluded in favor of the third party on the basis of an independent require. *Journal of Law*, 2, 81-95.
- Lenger, Y. (2016). *Conflicts in municipal law: Problems of theory and practice*. Uzhhorod: Uzhhorod National University.
- Leverick, F. (2009). Answering for crime: Responsibility and liability in the criminal law. *Edinburgh Law Review*, 13(1), 163-165.
- Madiyarova, A., Ziyadin, S., Blembayeva, A. & Doszhan, R. (2018). Modern trends in digitalization of tourism industry. *Proceedings of the 32nd International Business Information Management Association Conference, IBIMA 2018 - Vision 2020: Sustainable Economic Development and Application of Innovation Management from Regional expansion to Global Growth* (pp. 7990-7997). Seville: International Business Information Management Association.
- Maiani, F., McMorrow, G., Nussberger, A. & Pinelli, C. (2023). Georgia Interim Opinion on the Draft Law "On De-Oligarchisation". Retrieved from [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2023\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2023)009-e)

- Makharadze, A. (2021). Analogy of the law in Georgian criminal law. In: *Proceeding of the V International Scientific and Practical Conference "Ukraine in the context of legal system reform: Current realities and international experience"* (pp. 197-199). Ternopil: West Ukrainian National University.
- Makharadze, A. (2022). Analogy of law and competition of duties as an exclusionary circumstance. In: *Proceeding of the VI International Scientific and Practice Conference "Russian-Ukrainian war: Law, security, peace"* (pp. 180-184). Ternopil: West Ukrainian National University.
- Manins, R. (2023). Ga. Axes "weird" precedent rule to even up with other courts. *Law360*. Retrieved from <https://www.law360.com/articles/1298481/ga-axes-weird-precedent-rule-to-even-up-with-other-courts>
- Mansurova, M.A., Bekhbudov, S.H.H., Zhilisbaeva, R.O., Tashpulatov, S.S.H. & Baymakhanova, M.B. (2018). The analysis of vertical fluctuations of the roller with the rubber plug of the device for drawing of the polymeric composition on lines of sewed materials in the sewing-machine. *Izvestiya Vysshikh Uchebnykh Zavedenii, Seriya Tekhnologiya Tekstil'noi Promyshlennosti*, 377 2018-January(5), 142-145.
- Matwijkiw, A. (2007). The reverse revenge norm in international law. *Revue Internationale de Droit Penal*, 78(3-4), 565-599.
- Mayson, S. (2020). The concept of criminal law. *Criminal Law and Philosophy*, 14(3), 447-464.
- McCoy, L. (2022) What is the criminal process in Georgia? *Criminal & DUI Law of Georgia*. Retrieved from <https://www.criminalandduilawofgeorgia.com/2022/05/11/criminal-process-in-georgia/>
- Milestones 2023: Key legal issues. (2023). *Ceca Magán Abogados*. <https://www.cecamagan.com/en/blog/milestones-2023-key-legal-issues>
- Mukhadze, G. (2013). Some issues of guiltiness in affective murder. *European Scientific Journal*, Special Issue, 31-37.
- Nullum crimen sine lege. (2023). *Cornell Law School*. Retrieved from [https://www.law.cornell.edu/wex/nullum\\_crimen\\_sine\\_lege](https://www.law.cornell.edu/wex/nullum_crimen_sine_lege)
- Nurtazina, R., Abildayev, A., Nurtaza, A. & Aubakirova, L. (2015). Energy security as a political problem of the Republic of Kazakhstan. *Social Sciences (Pakistan)*, 10(6), 845-847.
- Priyma, S., Erofeeva, M. (2022). The concept of the legal collisions. *Theory and Practice of Jurisprudence*, 2(22), 5-21.
- Ristroph, A. (2018). The thin blue line from crime to punishment. *Journal of Criminal Law and Criminology*, 108(2), 305-334.



- Sabitova, A.M. & Shaizadanova, G.S. (2016). Development of scientific requirements to special overalls for MES for republic Of Kazakhstan rescuers. *Izvestiya Vysshikh Uchebnykh Zavedenii, Seriya Tekhnologiya Tekstil'noi Promyshlennosti*, 366 2016-January(6), 308-310.
- Schäfer, H.-B. & Florian, F. (2022). The limits of liability for pure financial losses in the event of accidents. For a new definition of the interests of accident victims that are worthy of protection in German tort law. Retrieved from <https://ssrn.com/abstract=4215843>
- Shahav, S. (2023). Anti-terrorism criminal law: Where emergency regime meets the investigative agenda. *Israel Law Review*, 56(2), 225-262.
- Shahini, E., Korzhenivska, N., Haibura, Y., Niskhodovska, O. & Balla, I. (2023). Ukrainian agricultural production profitability issues. *Scientific Horizons*, 26(5), 123-136.
- Shalbolova, U., Chikibayeva, Z. & Kenzhegaliyeva, Z. (2021). Efficiency of investment projects to modernize facilities housing and communal services (case of Kazakhstan). *IOP Conference Series: Earth and Environmental Science*, 650(1), 012075.
- Shalbolova, U., Chikibayeva, Z., Yegemberdiyeva, S. & Kim, Y. (2020). Housing and communal services as a factor of the urban sustainability. *E3S Web of Conferences*, 208, 04013.
- Sherwint, E. (1999). A defense of analogical reasoning in law. *University of Chicago Law Review*, 66, 1179-1197.
- Shukesheva, S.E., Uzakov, Y.a.M., Chernukha, I.M., Nabiyeva, Z.S. & Kozybayev, A. (2018). On the role of controlling systems in the quality of food products. *Journal of Advanced Research in Dynamical and Control Systems*, 10(13 Special Issue), 642-648.
- Sinaj, Z., Ramosacaj, M. & Kushta, E. (2023). Performance management assessment in agriculture organisations (using factorial parameters case of Albania). *Scientific Horizons*, 26(1), 102-110.
- Suicide: Policy for prosecutors in respect of cases of encouraging or assisting suicide. *Crown Prosecution Service (CPS)*. (2014). Retrieved from <https://www.cps.gov.uk/legal-guidance/suicide-policy-prosecutors-respect-cases-encouraging-or-assisting-suicide>
- Tetley, W. (1992). Division of collision damages: Common law, civil law, maritime law and conflicts of law. *Tulane Maritime Law Journal*, 16(2), 263-288.
- Teymurova, V., Huseynli, I. & Miethlich, B. (2023). Operation of Organizations and Their Relationship to Corporate Responsibility. *Public Organization Review*, doi:10.1007/s11115-023-00724-2

- Thorburn, M. (2016). Calling Antony Duff to account. *Criminal Law and Philosophy*, 9(4), 737-751.
- Tokishyeva, A.Ye. (2013). Concept and types of legal collisions. *Bulletin of the Karaganda University. Series Law*, 3(71), 78-83.
- Tsikarishvili, K. (2020). Intention and negligence in complicity in Georgian and American criminal law. *Journal of Law*, 1, 267-285.
- Tsikarishvili, K. (2022). Mandatory elements of the crime of human trafficking according to the Criminal Code of Georgia. *Legal Bulletin*, 2(63), 222-227.
- Vela, F. & Sinaj, Z. (2023). The Impact of Increasing Performance and Productivity in the Management of Human Resources in Albanian Enterprises. *Theoretical and Practical Research in the Economic Fields*, 14(1), 85-93.
- Wasmuth Jr., E. (2020). The end (almost) of “physical precedent” in Georgia. *Smith Gambrell Russell*. Retrieved from <https://www.sgrlaw.com/the-end-almost-of-physical-precedent-in-georgia/>
- Yerkin, A., Zhekiybayeva, B., Kurimbayev, S., Myrzabayev, A. & Utebayev, I. (2018). The teaching policy of imperial Russia directed to Foreign people including the Kazakh. *Astra Salvensis*, 6(1), 55-73.
- Zavada, M.L. (2018). *The principle of nulla poena sine lege in international criminal law*. Odesa: National University “Odesa Law Academy”.
- Zhanbulatova, R., Zhiyenbayev, M., Dyusembekova, M. & Nurtazina, R. (2020). The energy vector of Kazakhstan-Russia relations in the context of global changes on the international energy market. *Central Asia and the Caucasus*, 21(2), 121-130.