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# THE LEGAL NATURE OF THE ADMINISTRATIVE REAL ACT

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## ABSTRACT

This article examines the administrative real act as a distinct legal form of public administration and analyses its doctrinal foundations, characteristics, typology, and criteria of differentiation from the administrative act, internal administrative measures, and administrative silence. The study demonstrates that, although the administrative real act lacks a regulatory nature, it may produce substantial legal consequences, including interference with fundamental rights. Consequently, its legal qualification cannot depend solely on formal criteria but must be based on a result-oriented analysis.

Drawing upon German administrative law doctrine and Georgian legislative and judicial practice, the article substantiates the admissibility of judicial review of real acts whenever factual conduct affects the individual's legal sphere. Particular attention is devoted to the development of judicial standards, including competence, legitimacy of purpose, proportionality, intensity of interference, and reversibility of consequences. The research highlights the growing importance of a result-oriented approach in ensuring effective legal protection and preventing administrative arbitrariness.

The article concludes that clearer normative regulation, consolidation of judicial practice, and strengthened doctrinal engagement are necessary to ensure the coherent application of the administrative real act within a rule-of-law framework.

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## KEYWORDS

Administrative Real Act, Realakt, Public Administration, Judicial Review, Administrative Act, Administrative Silence, Proportionality, Rule of Law, Police Measures, Effective Legal Protection

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## Introduction

In the conditions of contemporary public administration, the activities of administrative authorities are increasingly characterised by operational efficiency and the intensification of factual actions, which gradually diminishes the practical universality of the classical, formalised administrative act. In many instances, public authority achieves its governing objectives through direct factual intervention — by carrying out technical, infrastructural, supervisory, or organisational measures — without issuing a written individual administrative act. Nevertheless, such actions frequently produce legally relevant consequences and substantially affect the legal status of an individual (Wolff, Bachof, & Stober, 2004).

The growing prevalence of factual administrative conduct has placed on the agenda the problem of its legal qualification and judicial control. In practice, situations often arise in which the conduct of an administrative authority cannot formally be classified as an individual administrative act; however, in reality, it creates, modifies, or maintains a factual situation that restricts subjective rights or legitimate interests. In such circumstances, ensuring legal protection within the framework of the classical concept of the administrative act is no longer sufficient.

Public administration must be oriented toward the practical implementation of the objectives established by the Constitution, which obliges administrative authorities to focus not merely on formal decisions but on tangible results (Khubua, 2016).

In this context, particular importance is attached to the concept of the administrative real act (*Realakt*) as an independent legal form of public administration. The administrative real act enables the extension of legal control to those factual actions of administrative authorities that are not aimed at the formal establishment of a legal relationship but nonetheless effectively interfere with an individual's legal sphere. In this function, the concept of the real act constitutes an important instrument for the practical realisation of the principle of the rule of law.

In German administrative law, the development of the concept of the real act is linked to the evolution of the principle of the *Rechtsstaat*, according to which legal control must extend not only to normative and individual acts but also to factual forms of the exercise of public authority (Maurer, 2011). This approach is becoming increasingly relevant in contemporary Georgian legal reality as well.

In Georgian administrative law, the legal conceptualisation of factual administrative conduct is gradually developing. Although elements of a legal definition of the administrative real act can already be found in special legislation, both doctrine and judicial practice still demonstrate a lack of uniformity regarding the concept, characteristics, and criteria for distinguishing the real act from other legal forms (Turava, 2024). This circumstance enhances the topicality and practical significance of the present research.

The purpose of this study is to determine the legal nature of the administrative real act, to conceptualise its defining characteristics and typology, and to formulate criteria for its differentiation from other legal forms of public administration — namely, the administrative act, internal administrative measures, and administrative silence. Furthermore, the research aims to analyse the specific features of judicial review of administrative real acts and to assess the significance of a result-oriented approach for ensuring effective legal protection.

## Research Methodology

This study is based on a doctrinal and normative analysis of the administrative real act within the systematic framework of administrative law. The methodological foundation combines classical legal research methods, including doctrinal, systematic, comparative, and functional analysis.

The doctrinal method is employed to examine the theoretical foundations of the administrative real act, particularly in light of the German *Realakt* concept. Through comparative analysis, the study evaluates the interaction between German doctrinal approaches and the evolving Georgian administrative-legal framework.

The normative analysis is grounded in the systematic and teleological interpretation of Georgian administrative legislation and relevant special regulations. Particular attention is devoted to identifying the normative elements that substantiate the legal relevance of non-formalised administrative conduct and its subjection to judicial review.

The research further incorporates an analysis of judicial practice, on the basis of which the principal criteria for assessing administrative real acts are identified — competence, legitimacy of purpose, intensity of interference, and proportionality. The analytical framework of the study is result-oriented, meaning that legal qualification depends on the actual impact of administrative conduct rather than its formal classification.

### **I. The Concept and Doctrinal Foundations of the Administrative Real Act**

The concept of the administrative real act emerged in administrative-legal doctrine as a response to the limitations of the formalised model of public administration. Traditionally, the central instrument of administrative law was regarded as the administrative act — a written individual decision by which an administrative authority establishes, modifies, or terminates a legal relationship. However, the development of administrative practice has demonstrated that a significant portion of the activity of administrative authorities is carried out through direct factual actions which do not formally assume the form of an administrative act but nonetheless affect the legal status of an individual.

In doctrine, it is particularly emphasised that the identification of an administrative real act depends decisively on a result-oriented analysis. If the factual conduct of an administrative authority creates, modifies, or maintains a factual situation that restricts an individual's legal position, such conduct cannot remain outside legal assessment and judicial review, even though it is not expressed in the form of an administrative act (Ipsen, 2014).

In Georgia, both in legal scholarship and in administrative justice practice, the term administrative real act has been established under the influence of German law. The principal instruments used in the exercise of public administration — including forms, methods, and coercive measures — are largely regulated by administrative legislation, which necessitates the legal evaluation of administrative conduct within the framework of applicable norms (Kopaleishvili, Skhirtladze, Kardava, & ed. Turava, 2016).

In Georgian administrative-legal theory, the idea of the administrative real act is gradually developing and functionally approaching the German doctrinal model. Scholars indicate that factual actions of administrative authorities, which are not formally qualified as administrative acts, may nonetheless produce legally relevant consequences and therefore require effective legal control. This approach is particularly important in circumstances where an administrative authority achieves its governing objectives through non-formalised measures.

A real act may be defined as a public-law measure of an administrative authority that is aimed not at the establishment, modification, or termination of a legal relationship, but rather at producing factual consequences. The real act denotes the ordinary governing activity of an administrative authority — *de facto* conduct, that is, real action (Turava, General Administrative Law, 2024).

It is of particular importance that the concept of the administrative real act in Georgian law does not exist solely at the theoretical level. Elements of a legal definition of the real act can already be found in special legislation, confirming its normative relevance and creating a solid foundation for its further doctrinal and practical development. From this perspective, the administrative real act should be regarded as a result-oriented legal form of public administration that complements the classical model of the administrative act and strengthens the mechanisms for the protection of individual rights (Law of Georgia On Police, Article 2, 2014).

Article 177(3) of the General Administrative Code of Georgia provides for the possibility of challenging the actions of police authorities, while Article 24 of the Administrative Procedure Code of Georgia establishes legal remedies for the protection of rights and legitimate interests affected by real actions carried out by police authorities (Qurashvili, K., Doctoral Dissertation, 2019).

The law cannot provide ready-made governing models that may be mechanically applied in the process of state administration; its purpose is to ensure the possibility of their effective and flexible application. At the same time, the activity of an administrative authority — including that of the police — is permissible only within the limits determined by normative acts, which constitutes one of the fundamental principles of modern Western democracy. For this reason, particular importance is attached to the legislative foundations of administrative governance in the process of administrative modernisation (Khubua, 2016).

Taking into account these normative approaches, the definition of the concept and doctrinal foundations of the administrative real act provides the basis for identifying its essential characteristics and typology, which is necessary for the systematic assessment of its practical manifestations.

## II. The Characteristics of the Administrative Real Act

For the proper determination of the legal nature of the administrative real act, identifying its essential characteristics is of decisive importance. It is precisely these characteristics that enable the differentiation of the real act from the administrative act, from internal administrative measures, and from legally neutral factual conduct. Administrative-legal theory recognises that the concept of the real act cannot be constructed on the basis of a single formal criterion; rather, it requires a substantive and result-oriented analysis (Maurer, *Allgemeines Verwaltungsrecht*, 2011).

First, the absence of a formalised administrative act constitutes a defining feature of the administrative real act. In the case of a real act, the administrative authority does not adopt a written or otherwise formally expressed individual decision aimed directly at the establishment, modification, or termination of a legal relationship. Instead, the governing objective is achieved through the performance of a direct factual action, which, despite its non-formalised character, may substantially affect the legal position of an individual.

The second essential characteristic of the real act is its consequential effect. The legal significance of an administrative real act is determined not by the designation or formal appearance of the conduct, but by the actual result it produces within the individual's legal sphere. If the factual conduct of an administrative authority creates, modifies, or maintains a factual situation that restricts or determines an individual's legal status, the conduct must be qualified as an administrative real act, regardless of whether it was formally expressed in the form of an administrative act (Schoch, 1990).

The third characteristic is its purposive administrative nature. An administrative real act is always connected with the exercise of a public function and is directed toward the fulfilment of a specific administrative task. Only those factual actions that are functionally integrated into the process of public administration and carried out within the competence of an administrative authority may be regarded as real acts. In this respect, the real act differs significantly both from the actions of private persons and from purely technical or internal organisational measures of an administrative authority.

For the identification of a real act, the existence of an external effect is of decisive importance. An administrative real act must extend beyond the internal organisational sphere of the administrative authority and affect external subjects — natural or legal persons. If a measure does not produce an external factual or legal consequence, it cannot be classified as an administrative real act and remains within the framework of internal administrative activity.

Accordingly, the combination of these characteristics — the absence of a formalised administrative act, consequential effect, purposive administrative nature, and the existence of an external effect — forms the system of criteria on the basis of which the factual conduct of an administrative authority may be legally qualified and subjected to judicial review.

## III. Types of the Administrative Real Act

The typological classification of administrative real acts is of practical importance both for the assessment of administrative authorities' activities and for determining the intensity of judicial review. The differentiation of types of real acts is based on the functional purpose of the conduct and the degree of its impact on the individual's legal sphere. Doctrine unequivocally recognises that real acts cannot be assessed uniformly due to their substantive diversity; accordingly, a typological approach ensures a more precise legal analysis (Maurer, *Allgemeines Verwaltungsrecht*, 2011).

First, factual-informational real acts may be distinguished. This category includes actions of administrative authorities related to the provision of information, warnings, public announcements, or official explanations. Although such measures generally lack a coercive character, they may significantly influence individual behaviour and practically determine a person's legal position. Consequently, factual-informational real acts cannot be regarded as legally neutral conduct and require legal assessment in light of the specific circumstances.

A real act carried out by the police may manifest itself both within and outside the organisation. An intra-organisational real act exists where its factual consequences do not extend beyond the internal organisational structure of the police. For example, when an authorised police officer prepares documents, ensures operational readiness of the necessary equipment, organises meetings, or systematises documents and other official materials, such conduct remains within the internal sphere of administration (Qurashvili, K., *Doctoral Dissertation*, 2019)

Legal literature systematises externally manifested real acts into two groups: informational real acts and factual actions. Informational real acts of the police include providing explanatory information to citizens,

issuing public warnings to prevent anticipated dangers, and warning road users about falling rocks, icy conditions, avalanche risks, and similar hazards. Real acts carried out by the police in the form of factual actions include, for instance, closing roads during cleaning or repair works, or informing citizens by short text message about traffic offences recorded by video or photographic means (Qurashvili, K., Doctoral Dissertation, 2019).

The second important group consists of factual-operational real acts. These are factual actions undertaken by administrative authorities in the direct performance of public functions, such as carrying out infrastructural works, implementing supervisory measures, physically arranging territory, or providing administrative services in practice. Such real acts often create a long-term or permanent factual situation that directly affects the rights and legitimate interests of individuals. Their legal evaluation becomes particularly significant when the conduct is performed without the issuance of an individual administrative act.

A separate category comprises coercive real acts associated with the application of administrative coercion. These actions involve intensive and immediate interference with an individual's legal sphere, which necessitates heightened legal scrutiny and judicial control. In the case of coercive real acts, result-oriented analysis and compliance with the principle of proportionality constitute decisive criteria for determining the lawfulness of the conduct.

This typology is not exhaustive and does not exclude the existence of mixed or transitional forms of real acts. Nevertheless, it provides a systematic understanding of the diverse manifestations of administrative real acts and creates a basis for determining the appropriate legal response and the intensity of judicial review applicable to each type. Ultimately, the differentiation of types of real acts serves the effective protection of individual rights and enhances the legal transparency of public authority.

The identification of the characteristics and typology of the administrative real act makes it possible, at the subsequent stage of analysis, to assess its place in relation to other legal forms of public administration. Accordingly, particular importance attaches to establishing criteria for distinguishing the real act from the individual administrative act and other governing forms.

#### **IV. The Administrative Real Act and the Administrative Act**

Although the real act does not possess a regulatory legal nature, from the perspective of its effects it may nevertheless result in a restriction of individual rights (Turava & ed. Korkelia, *Compliance of Norms Regulating the Activities of the Georgian Police with European Human Rights Standards*, in: *Protection of Human Rights and Legal Reform in Georgia*, 2014). As a legal form, the real act serves as a means of implementing police measures and is therefore subject to the principle of statutory reservation. The lawfulness of a real act may become the subject of dispute in the same manner as a police measure implemented in the form of an administrative act.

The legal basis for the implementation of a real act by the police may be a statute, a normative administrative act, or an individual administrative act. A conferring (empowering) real act may, in certain circumstances, also be carried out without a specific normative foundation (Khubua & (ed.), *Legal Foundations of Public Administration*, Vol. III., 2016).

The distinction between the administrative real act and the administrative act constitutes one of the central issues in administrative law theory and practice. The necessity of such differentiation stems from the fact that the correct choice of legal remedies directly depends on the legal qualification of the administrative authority's conduct. An incorrect qualification may result in the application of an ineffective form of judicial protection and, ultimately, in the weakening of effective protection of individual rights (Ipsen, *Allgemeines Verwaltungsrecht*, 2014).

Traditionally, an administrative act is defined as an individual decision adopted by an administrative authority, based on an expression of will, and aimed at the establishment, modification, or termination of a legal relationship. An essential characteristic of the administrative act is its normative content and the formal determination of legal consequences. Accordingly, in the case of an administrative act, the legal effect arises directly from the moment of its issuance and is grounded in the expressed will of the authority (Wolff, Bachof, & Stober, 2004).

By contrast, in the case of an administrative real act, the administrative authority does not adopt a written or otherwise formally expressed individual decision that directly determines a legal relationship. The real act constitutes factual conduct, the legal significance of which is determined not by normative content but by the factual situation created as a result of the conduct. In this case, the legal consequence arises through the

performance of the action itself and not through the issuance of a formalised decision (Maurer, Allgemeines Verwaltungsrecht, 2011).

Legal theory emphasises that a purely formal criterion — namely, the existence or absence of an administrative act — is insufficient for determining the legal nature of the conduct. Decisive importance attaches to the functional purpose of the conduct and its consequential effect. If the action of an administrative authority is aimed at establishing a legal relationship in normative form, it constitutes an administrative act; whereas if the conduct is directed at creating a factual situation that nonetheless affects the individual's legal sphere, it should be qualified as an administrative real act.

In Georgian administrative-legal doctrine, this approach is increasingly gaining ground. Scholars indicate that factual actions undertaken by administrative authorities, which are not formally expressed in the form of an administrative act, may produce legal consequences requiring judicial control. In this context, the concept of the real act complements the classical model of the administrative act and extends legal protection to non-formalised governing measures (Turava, General Administrative Law, 2024).

From the perspective of distinguishing public warnings from responses to administrative offences, it may be clarified that the prohibitory road sign 3.2 “No Entry” under the Law of Georgia on Road Traffic carries an informational (preventive) character for participants in road traffic. However, disregard of such a sign results in a police response to an administrative offence in the form of an administrative-legal act issued against the offender — the determination of whose legal form constitutes one of the objectives of the present research (Qurashvili, K., Doctoral Dissertation, 2019).

Accordingly, the differentiation between the administrative real act and the administrative act must be based on a result-oriented analysis and the actual substance of the conduct. This approach ensures comprehensive legal control over the activities of administrative authorities and serves the practical realisation of the principle of the rule of law.

#### **V. The Administrative Real Act and Internal Measures of an Administrative Authority**

The distinction between the administrative real act and internal measures of an administrative authority is based on the criterion of external effect and on the actual impact of the conduct on the individual's legal sphere. Internal measures of an administrative authority are generally directed toward ensuring organisational functioning and are not intended to have a direct impact on the rights and legitimate interests of external subjects. Such measures include internal instructions, allocation of tasks, internal management of administrative resources, and other similar organisational arrangements.

Legal theory emphasises that the legal significance of internal measures is confined to the internal sphere of the administrative authority. They do not produce independent legal consequences for external subjects and, as a rule, are not subject to judicial review. In this respect, internal measures differ fundamentally from administrative real acts, which are characterised precisely by their impact on external subjects (Maurer, Allgemeines Verwaltungsrecht, 2011).

In practice, however, situations frequently arise in which a measure may formally be classified as an internal arrangement but in reality affects the legal position of a specific individual. In such cases, decisive importance attaches to the actual result of the conduct rather than to its formal designation. If an internal organisational decision of an administrative authority is accompanied by factual conduct that extends beyond the internal sphere and affects an external subject, such conduct must be qualified as an administrative real act (Ipsen, Allgemeines Verwaltungsrecht, 2014).

German administrative-legal doctrine notes that the boundary between an internal measure and a real act lies in the existence of an external effect. It is precisely this criterion that ensures the extension of legal control to factual conduct which, despite its internal organisational form, effectively interferes with an individual's legal sphere. Such an approach prevents administrative authorities from instrumentalising internal measures in order to avoid judicial review (Schoch, Rechtsschutz gegen Realakte, Tübingen, 1990).

Georgian administrative-legal doctrine likewise recognises that the qualification of administrative conduct requires substantive and result-oriented analysis. If it is established that the conduct produces legally relevant consequences for an external subject, it cannot remain within the category of internal measures and must be assessed as an administrative real act. This approach acquires particular practical importance, given that administrative authorities frequently carry out non-formalised factual actions based on internal decisions (Turava, General Administrative Law, 2024).

Accordingly, the distinction between the administrative real act and internal measures of an administrative authority must be based not on the formal classification of the conduct, but on its actual effect. The existence of an external effect constitutes the key criterion for determining the legal nature of the conduct and for ensuring effective protection of individual rights.

## VI. The Administrative Real Act and Administrative Silence

The distinction between the administrative real act and administrative silence is based on the criterion of the existence of conduct. Administrative silence constitutes a legal form of inaction and is expressed in the failure to adopt a decision within the time limit established by law, whereas the administrative real act is always connected with active factual conduct of an administrative authority. This distinction is of decisive importance for the proper selection of legal remedies (Maurer, Allgemeines Verwaltungsrecht, , 2011).

In the case of silence, the legal issue concerns the failure of the administrative authority to fulfil its obligation — specifically, the breach of the duty to adopt a decision or issue an administrative act. Accordingly, the legal assessment of silence is directed not at reviewing the lawfulness of an already implemented interference, but at eliminating the administrative authority's inaction. In contrast, in the case of a real act, the object of legal control is the factual conduct carried out and the legal situation created as a result thereof.

Legal scholarship emphasises that administrative silence cannot be interpreted as factual conduct. Silence does not create an independent factual situation through action; rather, it represents a legal state arising from the authority's inaction. Therefore, equating the real act with silence disrupts the systematic logic of administrative law and complicates the provision of effective legal protection (Schoch, Rechtsschutz gegen Realakte, Tübingen, 1990).

Particular complexity arises in situations where an administrative authority formally fails to adopt a decision within the statutory time limit but simultaneously undertakes factual actions that affect an individual's legal position. In such circumstances, decisive importance attaches to the actual substance and effect of the conduct. If it is established that the administrative authority has in fact acted and that such conduct has created or modified the legal position of a specific individual, the situation must be qualified as an administrative real act rather than as administrative silence.

In Georgian administrative-legal theory and practice, this approach is especially important in order to prevent administrative authorities from instrumentalising silence as a means of avoiding judicial control. A result-oriented analysis ensures that legal protection extends to all situations in which the individual's legal sphere is effectively harmed, irrespective of whether a formal administrative act exists.

Accordingly, the distinction between the administrative real act and administrative silence must be based on the criteria of the existence of conduct and consequential effect. The presence of active factual conduct excludes silence and requires the qualification of the measure as an administrative real act, thereby ensuring effective judicial protection of individual rights.

The doctrinal and normative criteria for distinguishing the real act acquire practical significance in the context of its legal control. For this reason, it is logical to proceed to an examination of the mechanisms of judicial review of administrative real acts and the specific features of their application in the judicial practice of Georgia.

## VII. Admissibility of Judicial Review of the Administrative Real Act

The theoretical concept of the administrative real act acquires practical significance in the context of judicial review. Where an administrative authority achieves its governing objectives through non-formalised factual conduct and does not adopt an individual administrative act, a decisive question arises: is such conduct subject to judicial review, and on what legal basis? Contemporary developments in administrative law clearly indicate that the scope of judicial review cannot be confined solely to formalised decisions.

German administrative-legal doctrine recognises that the guarantee of legal protection (*Rechtsschutzgarantie*) requires the extension of judicial review to all conduct of administrative authorities that effectively affects the rights and legitimate interests of individuals. Accordingly, the admissibility of judicial review of an administrative real act is determined not by the legal form of the conduct but by its consequential effect. If factual conduct has created, modified, or maintained a situation that restricts an individual's legal sphere, such conduct must be subject to judicial examination (Maurer, Allgemeines Verwaltungsrecht, , 2011).

This approach is particularly important in circumstances where administrative authorities act through non-formalised measures. Excluding judicial review solely on the ground that the conduct is not expressed in the form of an administrative act would create a legal vacuum and violate the principle of effective legal protection.

In Georgian administrative law, a tendency toward an expanded understanding of judicial review is likewise evident. Both theory and practice increasingly affirm the view that factual conduct of an administrative authority, where it affects an individual's legal position, cannot remain outside judicial scrutiny.

This approach serves the real protection of individual rights and prevents administrative authorities from avoiding judicial control by relying on non-formalised actions.

The issue of admissibility becomes particularly acute where an administrative real act takes the form of continuous or repetitive factual conduct. In such situations, the individual's legal position may be affected not by a single measure but by ongoing interference. Consequently, the timeliness and accessibility of judicial review acquire special importance in order to ensure the effectiveness of legal protection (Wolff, Bachof, & Stober, *Verwaltungsrecht I*, 2004).

A real act, like an administrative act, is unlawful where it is carried out by an authority lacking territorial or subject-matter competence, or where it unlawfully restricts an individual's fundamental constitutional rights and freedoms (Qurashvili, K., *Doctoral Dissertation*, 2019). Where a police real act infringes subjective rights, the affected person is entitled to lodge a complaint with the administrative authority or to bring an action before a court, seeking either the performance of a required act or the cessation of unlawful conduct. The lawfulness of a real act may become the subject of dispute in the same manner as a police measure implemented in the form of an administrative act (Turava P., 2014).

Accordingly, the admissibility of judicial review of the administrative real act must be assessed on the basis of a result-oriented approach. The non-formalised nature of the conduct cannot serve as grounds for excluding judicial review where interference with the individual's legal sphere is established in fact. This approach promotes the human rights-oriented development of administrative proceedings and reduces the risk of administrative arbitrariness.

### **VIII. Criteria for Judicial Assessment of the Administrative Real Act**

Judicial assessment of the administrative real act requires a substantive and result-oriented analysis that goes beyond the limits of a purely formal review of legality. In judicial practice, an approach is gradually consolidating according to which decisive importance is attached not to the legal form of the conduct, but to the actual impact it produces on the rights and legitimate interests of individuals. This approach ensures the adequacy of judicial review in situations involving non-formalised factual conduct.

First, the court examines the existence of a legal basis for the conduct. In this assessment, it is determined whether the administrative authority possessed the relevant competence and acted within the scope of powers defined by law. The absence of competence or the exceeding of statutory authority may constitute an independent ground for declaring a real act unlawful, regardless of whether the conduct is expressed in the form of an administrative act.

The second criterion concerns the legitimacy of the purpose pursued. Judicial practice evaluates whether the administrative real act serves the realisation of a public interest and whether it corresponds to the objectives established by law. If the factual conduct is carried out for an illegitimate purpose or for an aim not envisaged by law, it cannot be regarded as legally permissible, notwithstanding its non-formalised character.

The third important criterion is the intensity of interference with the individual's legal sphere. The court assesses the depth and extent to which the administrative real act affects the rights of the specific person concerned. In cases of intensive interference, judicial review must be stricter and more detailed, which is particularly relevant in relation to coercive real acts. This approach ensures proportionate protection of individual rights (Wolff, Bachof, & Stober, *Verwaltungsrecht I*, 2004).

The fourth criterion is compliance with the principle of proportionality. The court verifies whether the administrative real act is suitable, necessary, and proportionate for achieving the legitimate aim pursued. The proportionality test is particularly significant where the conduct is carried out without the issuance of an individual administrative act and where factual interference creates long-term or severe consequences for the individual's legal position (Schoch, *Rechtsschutz gegen Realakte*, Tübingen, 1990).

Judicial practice also pays attention to the reversibility of the consequences of the conduct. Where the factual situation created by an administrative real act is difficult or impossible to reverse, courts apply stricter scrutiny in evaluating its lawfulness and justification. This criterion is especially important in relation to infrastructural and operational real acts, where factual consequences may be long-lasting or permanent (Turava, *General Administrative Law*, 2024).

Accordingly, judicial assessment of the administrative real act is based on a комплекс system of criteria encompassing competence, legitimacy of purpose, intensity of interference, proportionality, and reversibility of consequences. This approach ensures the effectiveness of judicial review and serves the practical realisation of the principle of the rule of law in the sphere of non-formalised administrative conduct.

### **IX. The Administrative Real Act and Administrative Silence in Judicial Practice**

In judicial practice, the distinction between the administrative real act and administrative silence acquires particular practical significance, as the proper qualification of the conduct determines the appropriate form of legal protection. Administrative silence relates to the failure to fulfil the obligation to adopt a decision, whereas the administrative real act constitutes already implemented active factual conduct that produces real interference in the individual's legal sphere.

Courts emphasise that, in cases of silence, the subject of the dispute concerns the inaction of the administrative authority and its obligation to adopt the relevant decision. In such cases, judicial review is directed not at assessing the lawfulness of factual interference, but at determining the existence of a duty to act and whether that duty has been breached. Consequently, the legal effects of silence differ fundamentally from those of an administrative real act, where the object of review is the conduct already carried out.

In practice, particular difficulties arise where an administrative authority formally fails to adopt a decision within the statutory time limit while simultaneously undertaking factual measures that affect the individual's legal position. Judicial practice in such circumstances prioritises the actual substance and consequences of the conduct. Where it is established that the administrative authority has in fact acted and that such conduct has created or modified the legal position of a specific individual, the situation is qualified as an administrative real act rather than as administrative silence.

Courts further note that the incorrect conflation of silence and real acts may be used by administrative authorities as a means of avoiding judicial review. Such practice contradicts the principle of effective legal protection and undermines the fundamental requirements of the rule of law. For this reason, courts apply a result-oriented approach and assess whether active factual interference exists that extends beyond the sphere of mere inaction (Schoch, *Rechtsschutz gegen Realakte*, Tübingen, 1990).

Judicial practice in Georgia is gradually forming a stable approach according to which administrative silence cannot conceal factual conduct that effectively restricts individual rights. In such cases, the affected person is entitled to seek judicial protection not only to compel the adoption of a decision but also to challenge the lawfulness of the factual interference already carried out. This approach significantly strengthens the effectiveness of administrative proceedings and the real protection of individual rights.

Accordingly, in judicial practice, the distinction between the administrative real act and administrative silence is based on the existence of active conduct and its consequential effect. Where factual interference by the administrative authority is established, silence cannot exclude judicial review, and the conduct must be assessed within the framework of the administrative real act.

### **X. The Result-Oriented Approach in Judicial Review of the Administrative Real Act**

The result-oriented approach in the judicial review of the administrative real act constitutes one of the central trends of contemporary administrative law. This approach implies that judicial assessment should focus not on the formal legal expression of the administrative authority's conduct, but on the actual consequences that such conduct produces in the individual's legal sphere. This method is particularly significant in circumstances where governing objectives are achieved through non-formalised factual actions.

In judicial practice, result-oriented analysis is applied in situations where the absence of a formal administrative act might otherwise be used to avoid legal responsibility. Courts emphasise that the non-formalised character of conduct cannot exclude judicial review where a real restriction of individual rights is established. Such an approach serves to guarantee effective legal protection and reduces the risk of administrative arbitrariness.

Within the framework of a result-oriented approach, courts pay particular attention to the factual consequences of the conduct, as well as to their duration and intensity. Where the situation created by an administrative real act is long-lasting or practically irreversible, judicial review must be stricter and more detailed. This approach ensures the effective application of the principle of proportionality and prevents excessive interference with the individual's legal sphere (Maurer, *Allgemeines Verwaltungsrecht*, 2011).

The result-oriented approach is also important with regard to the selection of appropriate remedies. Through such analysis, courts are able to determine whether it is sufficient merely to declare a violation, to order the cessation of unlawful conduct, or to impose an obligation on the administrative authority to restore the previous situation. Thus, the result-oriented approach is directly linked to the effectiveness of judicial protection (Wolff, Bachof, & Stober, *Verwaltungsrecht I*, 2004).

In the Georgian administrative-legal context, strengthening the result-oriented approach contributes to the humanisation of administrative proceedings and to their development in a human rights-oriented direction.

The evolution of judicial practice in this respect creates a real guarantee that non-formalised actions undertaken by administrative authorities will not remain outside legal control merely on formal grounds (Turava, *General Administrative Law*, , 2024).

For example, where a tax inspection report or a record of a tax offence merely contains abstract information regarding the state of a person's ongoing tax-law relationship with the tax authority and lists outstanding liabilities without imposing a specific obligation on the individual, such a document does not constitute an administrative-legal act but rather an internal informational document intended for intra-agency use (Supreme Court of Georgia, *Recommendations on Problematic Issues of Administrative Court Practice*, , 2007).

Accordingly, the result-oriented approach in judicial review of the administrative real act represents an indispensable element of effective legal protection. It ensures the adaptation of judicial control to the requirements of contemporary administrative practice and strengthens the real functioning of the principle of the rule of law.

## XI. Conclusions and Recommendations

The present study has examined the administrative real act as a specific legal form of public administration, distinct from the individual administrative act yet equally significant in terms of its impact on individual rights and legitimate interests. The research has demonstrated that, notwithstanding its non-regulatory character, the real act may produce substantial legal consequences, including restrictions of fundamental rights, thereby necessitating recognition of its normative relevance.

On the basis of doctrinal analysis and the applicable legislation, it has been established that the real act constitutes a form of administrative activity subject to the principle of statutory reservation. Particularly in the context of police activity, the real act functions both as a preventive and as a factual operational measure and frequently becomes the object of administrative and judicial review.

The judicial practice examined within the scope of this research confirms that the lawfulness of a real act may be challenged before administrative bodies and courts in the same manner as measures implemented in the form of an individual administrative act. This circumstance underscores the necessity of clearly defining the legal nature of the real act and developing uniform standards for its application.

Based on the findings of the research, the following recommendations appear appropriate:

1. **Normative Level** – Administrative legislation should more clearly define the concept, characteristics, and scope of application of the administrative real act, particularly in situations where it entails a risk of interference with individual rights.

2. **Administrative Practice** – Unified standards for the application of real acts should be developed in the practice of the police and other administrative authorities, in order to reduce the risk of arbitrariness and enhance legal predictability.

3. **Judicial Review** – The consolidation of judicial practice concerning the legal assessment of real acts should continue in both administrative and general courts, including clarification of issues relating to admissibility and effective remedies.

4. **Academic and Educational Dimension** – Doctrinal research on the real act should be strengthened and further integrated into administrative law curricula, thereby contributing to the development of qualified approaches in practice.

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