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## National System of Human Rights and Constitutional Review in Georgia

- **ABSTRACT:** *This article examines the structural characteristics and doctrinal logic of the national human rights system in Georgia, understood as a complex synthesis of Soviet legacy, post-Soviet transformation, and the reception of European legal standards. It is primarily informative in nature and employs a hermeneutical method to analyse the constitutional foundations of fundamental rights protection, their realisation in domestic law, and the role of constitutional review in preventing and remedying rights violations. The study maps the architecture of Chapter Two of the Constitution, emphasising the Constitution's treatment of rights as directly applicable law and as value norms operating throughout the legal order. It analyses the subject and addressee of rights, the predominantly vertical concept of fundamental rights (with limited horizontal effect), and the constitutional design of permissible interferences. Special attention is given to the Constitutional Court's interpretive and adjudicative methodology, including legal certainty review, proportionality analysis, and equality assessment through strict scrutiny and rational differentiation. The article further addresses the separation of jurisdictions between the Constitutional Court and common courts, procedural specificities of constitutional proceedings, and doctrinal innovations such as review of a norm's normative content. It concludes that the Constitutional Court functions as a pivotal institutional guarantee of constitutional supremacy and human rights protection in Georgia.*
- **KEYWORDS:** *Georgia, Constitutional Court, Human Rights, strict scrutiny, rational differentiation, Constitutional Review*

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## 1. Introduction

Human rights are part of universal law. While each state has its own national legal system with unique accents, priorities, and perspectives on human rights, no democratic society can be isolated or exist in a vacuum. Legal systems influence each other; states participate in international relations, affecting each other's legal frameworks. In this regard, Georgia is no exception – it represents a complex synthesis of heavy Soviet legacy, post-Soviet traumas, and a peculiar reception of European law. This structure plays a positive role on one hand, as diverse experiences enable future planning and predictability, but on the other hand, contains negative elements and poses numerous challenges to the national human rights system.

The constitution of Georgia, similar to other post-communist countries, places special emphasis on human rights and provides for both classical and new-generation fundamental rights, which is a merit of several constitutional reforms. This is supported by the Constitutional Court of Georgia, whose nearly thirty-year rich and diverse practice has played an incredibly significant role in assessing the content of fundamental rights and their limitations as well as the prevention of violations.

This study reviews the main characteristics and peculiarities of the national human rights system in Georgia, describes the legal regulation of fundamental human rights and their realisation, and examines constitutional review and constitutional proceedings as the main mechanisms for human rights protection and the role of the Constitutional Court of Georgia in this process. The paper is less focused on problems and challenges of the Georgian human rights system; it is primarily informative in nature and hermeneutically analyses the statutory foundations of fundamental rights protection and relevant case-law of the constitutional review.

## 2. Human Rights in Georgian Law

### ■ 2.1. *Fundamental Rights, Freedoms, and the Constitution of Georgia*

The second chapter of the Constitution of Georgia is dedicated to human rights. It encompasses not only specific fundamental rights but also regulates related matters, such as the Public Defender, state objectives,<sup>1</sup> and the so-called objective rights in the form of principles. The chapter is relatively unsystematic, making it difficult to identify a clear structure or thematic order in the numbering and sequencing of provisions. It begins with the inviolability of human dignity (Art. 9),

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1 Loladze and Phirtskhalashvili, 2023, p. 30.

followed by the right to life and physical inviolability (Art. 10), the right to equality (Art. 11), the right to freedom of development of personality (Art. 12), human liberty (Art. 13), freedom of movement (Art. 14), the right to inviolability of private and family life (Art. 15), the rights to fair administrative proceedings (Art. 18), and procedural rights (Art. 31).

The Constitution also devotes special attention to the freedom of faith, religion, and conscience (Art. 16); freedom of thought, information, mass media, and the internet (Art. 17); and freedom of creativity and cultural heritage (Art. 20). Political rights are extensively regulated, including the freedom to assemble (Art. 21), freedom of association (Art. 22), freedom of political parties (Art. 23), the right to elections (Art. 24), and the right to occupy an official position (Art. 25). Economic, cultural, and social rights are also addressed, such as the right to property (Art. 19), freedom of labour and freedom of entrepreneurship (Art. 26), the right to education and academic freedom (Art. 27), the right to the protection of health (Art. 28) and environmental protection (Art. 29), and the right to marry and rights of mothers and children (Art. 30).

The placement of a norm in this chapter does not automatically imply that it establishes a fundamental right and someone can defend themselves through court based on it.<sup>2</sup> During the 2017-2018 constitutional reform, there was an attempt to remove the so-called objective rights and norm-principles from the second chapter; however, many such norms still remain.<sup>3</sup> The basic law does not categorise or classify human rights, but its pathos and attitude are reflected in the beginning of the fundamental rights chapter with the right to dignity and continuing with the right to life, equality, and free personal development. It presents human rights from a positive perspective, without imposing corresponding obligations on the rights-bearing individual.

The Constitution recognises human rights as directly applicable law, which determines their direct effect and enforcement without their specification in current legislation. Fundamental rights, as legal norms, establish a system of values, which is why they claim to operate throughout the legal order, in all spheres and directions of law.<sup>4</sup>

The foundation of the Georgian system of human rights and freedoms is human dignity, which serves as the defining principle for all other rights. The Constitution of Georgia regards human dignity as inviolable, and both the practice of the common courts and the Constitutional Court recognise it as the essential cornerstone for the functioning of the entire human rights framework. Nevertheless, according to the interpretation of the Constitutional Court, the Constitution

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2 Decision N2/1-392 of the Constitutional Court of Georgia, 31 March 2008, para. II-19.

3 See: Gegenava, 2019, p. 113.

4 Izoria et al., 2005, pp. 5 and 14.

of Georgia does not establish a hierarchy among constitutional norms,<sup>5</sup> nor does it provide for so-called permanent or unamendable provisions.<sup>6</sup> All rights are normatively of equal significance.

The Constitution of Georgia refers to fundamental rights as ‘universally recognised human rights and freedoms’.<sup>7</sup> ‘Universal recognition’ naturally does not add content or status to human rights,<sup>8</sup> but indicates their importance and the Constitution’s special attitude towards rights. The basic law does not substantially differentiate between ‘rights’ and ‘freedoms’; they are essentially used as semantically equivalent without establishing any rational difference. The constitution mentions ‘fundamental constitutional human right’ in only one instance, in the context of prohibiting referendums aimed at restricting it.<sup>9</sup> ‘Fundamental human rights’ is mentioned in the constitutional norm regulating the Constitutional Court’s authority to review individual constitutional complaints,<sup>10</sup> and also in the article about general principles of rights protection.<sup>11</sup> Most importantly, the second chapter is called ‘Fundamental Human Rights’.

While the Constitution enumerates human rights quite comprehensively, it simultaneously leaves room for other relevant rights that exist beyond the constitutional text and inherently derive from constitutional principles.<sup>12</sup> This general regulation is provided in the current redaction of the fundamental law, although it was in the second chapter in 2017-2018, which allowed for the protection of human rights and appeals to the Constitutional Court through it. Currently, the possibility of interpreting and applying implied rights is entirely entrusted to the Constitutional Court’s goodwill and interpretation, as individual constitutional complaints based on constitutional norms beyond the second chapter are inadmissible in constitutional proceedings.<sup>13</sup>

Georgian legislation must comply with universally recognised principles and norms of international law,<sup>14</sup> which at a practical level determines the place of international human rights treaties in the hierarchy of legal acts. International treaties are subordinate to the Constitution of Georgia, constitutional law, and the Constitutional Agreement in terms of normative force,<sup>15</sup> while enjoying supremacy

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5 Ruling N2/2/486 of the Constitutional Court of Georgia, 12 July 2010; Ruling N1/3/523 of the Constitutional Court of Georgia, 24 October 2012; Decision N1/1/549 of the Constitutional Court of Georgia, 5 February 2013.

6 See: Gegenava, 2014, pp. 398–399.

7 Constitution of Georgia, 24 August 1995, Art. 4(2).

8 Tugushi et al., 2013, p. 594.

9 Constitution of Georgia, 24 August 1995, Art. 52(2).

10 Constitution of Georgia, 24 August 1995, Art. 60(4)(a).

11 Constitution of Georgia, 24 August 1995, Art. 34.

12 Constitution of Georgia, 24 August 1995, Art. 4(2).

13 See: Gegenava and Javakhishvili, 2017.

14 Constitution of Georgia, 24 August 1995, Art. 4(5).

15 Organic Law N1876 of Georgia “On Normative Acts”, Art. 7(3).

over and exceeding other acts in effect.<sup>16</sup> Although the Constitutional Agreement between the Apostolic Autocephalous Orthodox Church of Georgia and the State of Georgia supersedes international treaties, there is a reservation that it must comply with universally recognised principles and norms of international law in the field of human rights and fundamental freedoms.<sup>17</sup> This ensures the primacy of international human rights law over the agreement regulating church-state relations while maintaining the principle of constitutional supremacy.<sup>18</sup>

### 3. Actual Rights and Modern Trends in the Constitution of Georgia

Basic human rights are relevant in any state and society, regardless of their priorities or level of development. Some rights enjoy greater ‘popularity’ in specific spaces and among peoples. This can be due to various factors, such as the socio-economic background, level of development and education, quality of life, political regime, and public governance. Rights manifest themselves in the environment and reveal their true nature in relationships with others.

The number of constitutional disputes regarding fundamental rights and freedoms depends on the specifics of individual constitutional complaints. As individuals can only challenge restrictive normative acts or parts thereof in relation to Chapter Two of the Constitution, it is logical that the rights-based statistics of judicial practice differ significantly from the practice of the European Court or states with the German model of constitutional review. There are particularly many constitutional disputes regarding the right to free personal development, dignity, property, freedom of expression, privacy, fair trial, and equality. During the first decade of the Constitutional Court’s activity, many complaints concerned the right to property, social rights, and freedom of expression, which is logical as in a developing post-Soviet country, most legal problems were related to socio-economic issues. Gradually, the topics of privacy and procedural rights also became more concrete. Regarding the fundamental right to life and dignity, the Constitutional Court has operated and continues to operate with a limited mandate, as interference in these protected spheres often occurs through actions of public authority representatives rather than at the normative act level. However, the practice has changed since 2015, when the right to dignity was linked to imprisonment as punishment for marijuana use, and it was declared unconstitutional. The continuation of this judicial policy was the use of the right to free personal development as a universal means for rights protection. Freedom of expression and the right to privacy have become particularly relevant in the last decade.

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16 Constitution of Georgia, 24 August 1995, Art. 4(5).

17 Organic Law N1876 of Georgia “On Normative Acts”, 22 October 2009, Art. 7(4).

18 Gegenava, 2016, pp. 160–161.

Procedural rights and access to justice deserve special mention, to which one of the most extensive provisions in the Constitution is dedicated.<sup>19</sup> This is due to the fact that fair trial is a measure of the implementation of the rule of law and encompasses the possibility of judicial protection of all legal goods that inherently belong to the rights category.<sup>20</sup> The right to apply to court and access to justice includes the possibility of addressing both common courts and the Constitutional Court<sup>21</sup> and ensures prevention of unjustified limitation of rights.<sup>22</sup> Article 31 encompasses a broad spectrum of guarantees, among which the following are particularly important in the context of the right to a fair trial: the right to access a court and to have one's case examined by a court with jurisdiction; the right to defence (both personally and through a representative); the right to obtain and examine evidence; the principles of equality of arms and adversarial proceedings; the presumption of innocence and the prohibition of self-incrimination; the prohibition of retroactive application of law; the standard of reasonable doubt; the requirement that a conviction must be based on irrefutable evidence; the inadmissibility of evidence obtained in violation of the law; and the principle of *ne bis in idem*.

The 2017–2018 constitutional reform also affected Chapter Two of the fundamental law. Besides regrouping rights and making structural, linguistic, and substantive updates, so-called new generation rights also appeared in the Constitution, making it more adequate and responsive to contemporary challenges and trends. Alongside fair trial, the rights to fair administrative proceedings and compensation for damage caused by public authorities (right to effective remedy) were introduced.<sup>23</sup> Although these were already present in current legislation (in the General Administrative and Civil Codes), their recognition at the constitutional level brought their importance to the forefront. The Constitution of Georgia established the obligation of full compensation through courts for damage caused by the state (at the national level), autonomous republic, and municipal bodies and officials.<sup>24</sup> In the context of freedom of information, the document introduced the right to internet access and free use of the internet.<sup>25</sup> Academic freedom and autonomy of educational institutions were explicitly established.<sup>26</sup> In terms of procedural rights, both the individual right to unimpeded practice of advocacy and lawyers' right to self-organisation were separately distinguished,<sup>27</sup> which at least formally granted the Georgian Bar Association an almost constitutional status.

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19 Constitution of Georgia, 24 August 1995, Art. 31.

20 Decision N1/466 of the Constitutional Court of Georgia, 28 June 2010, para. II-14.

21 Decision N3/5/768,769,790,792 of the Constitutional Court of Georgia, 29 December 2016.

22 Decision N1/1/403,427 of the Constitutional Court of Georgia, 19 December 2008, para. II-1.

23 Constitution of Georgia, 24 August 1995, Art. 18.

24 Constitution of Georgia, 24 August 1995, Art. 18(4).

25 Constitution of Georgia, 24 August 1995, Art. 17(4).

26 Constitution of Georgia, 24 August 1995, Art. 27(3).

27 Constitution of Georgia, 24 August 1995, Art. 31(3).

## 4. Subject and Addressee of Fundamental Rights and Limitation of Rights

### ■ 4.1. Subject and Addressee of Fundamental Rights

The primary addressee of fundamental rights is the state. The Constitution of Georgia directly indicates that in exercising power, both the people and state are limited by rights and freedoms.<sup>28</sup> The governmental body is bound even when exercising authority through delegation, via private persons.<sup>29</sup> The fundamental law identifies two main obligations regarding human rights: to recognise and protect, which implies, on one hand, declaration of something, and on the other hand, the obligation to protect and ensure it.<sup>30</sup> In both cases, the proper addressee is public authority. According to the Constitutional Court of Georgia, the primary function of a state based on the rule of law is not only the passive protection of human rights and freedoms but also facilitating their realisation.<sup>31</sup> The Constitution establishes a vertical concept of human rights, whereby fundamental rights primarily restrict public authorities. A horizontal concept has been developed only in the context of the right to equality, as in this case, the fundamental right operates indirectly, imposing obligations not only on the state but also on legal entities and individuals, who are required to uphold equality in accordance with anti-discrimination legislation.

The subject of fundamental rights is primarily a natural person, though considering specifics, also a legal entity.<sup>32</sup> The constitution distinguishes between universal human rights and citizens' rights. The former applies to everyone (with right to life, property, freedom of belief and religion, etc.),<sup>33</sup> while citizens' rights typically ensure participation in public authority and politics and are explicitly expressed by including 'citizen' in the constitutional norm (e.g. freedom of political parties, electoral rights, right to hold public office).<sup>34</sup>

The Constitution of Georgia also identifies several special subjects, particularly in the context of the right to equality. The founding norm of equality emphasises formal justice, giving special importance to ensuring equal rights and opportunities for women and men.<sup>35</sup> The state establishes persons with disabilities as special subjects, creating special conditions for the realisation of their rights

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28 Constitution of Georgia, 24 August 1995, Art. 4(2).

29 Izoria et al., 2005, pp. 10–11.

30 Decision N1/466 of the Constitutional Court of Georgia, 28 June 2010, para. II-3.

31 Decision N1/466 of the Constitutional Court of Georgia, 28 June 2010, para. II-14.

32 Constitution of Georgia, 24 August 1995, Art. 34(1).

33 See: Constitution of Georgia, 24 August 1995, Arts. 10, 16, 19.

34 Constitution of Georgia, 24 August 1995, Arts. 23–25.

35 Constitution of Georgia, 24 August 1995, Art. 11(3).

and interests.<sup>36</sup> The fundamental law declaratively emphasises the importance of mothers' and children's rights<sup>37</sup> and also establishes constitutional foundations for the legal regime of foreigners and stateless persons.<sup>38</sup>

## ■ 4.2. *Limitation of Fundamental Rights and Its Justification*

### 4.2.1. *Limitation of Fundamental Rights*

The human rights protection standard includes maximally explicit determination of the boundaries for interference with and restriction of fundamental rights. However, from a practical standpoint, the constitution may also provide for implicit boundaries for rights restriction, which is entirely natural because it is impossible to regulate everything with absolute precision – the fundamental law must leave room for logic and systematisation in favour of human rights. The constitution of Georgia contains four types of grounds for restricting fundamental rights: (1) specific statutory reservation; (2) judicial decision reservation; (3) direct constitutional limit; and (4) internal constitutional limit. Among these, the last one is implicit, while the others are explicitly provided in constitutional norms. Some rights may simultaneously have several grounds for restriction.

The specific statutory reservation is quite frequently used in the constitution of Georgia as a boundary for interference with rights.<sup>39</sup> Constitutional norms regarding the freedom of movement, inviolability of private life, freedom of expression, and property rights, for example, indicate the possibility of limitation in cases determined by law.<sup>40</sup> The judicial decision reservation is used almost as frequently. It typically appears alongside statutory reservation, particularly concerning rights where assessment by general standards could be harmful. According to the Constitutional Court of Georgia, defining judicial reservation as an additional formal standard for rights limitation is determined by the nature of the respective right or its individual components and the risk of executive power arbitrariness; its mandatory nature ensures correct application of the law.<sup>41</sup> Therefore, they need an additional mechanism. For example, judicial decision reservation appears in constitutional norms concerning human liberty, property rights, and freedom of association.<sup>42</sup>

Direct constitutional limits explicitly define the grounds for restricting fundamental rights directly in the constitutional text, in specific norms. For example, Article 23(3) of the constitution indicates circumstances under which the creation

36 Constitution of Georgia, 24 August 1995, Art. 11(4).

37 Constitution of Georgia, 24 August 1995, Art. 30(2).

38 Constitution of Georgia, 24 August 1995, Art. 33.

39 Loladze and Phirtskhalashvili, 2023, p. 55.

40 See: Constitution of Georgia, 24 August 1995, Arts. 14(2), 15(1), 17(5), 19(2).

41 See: Decision N2/4/665,683 of the Constitutional Court of Georgia, 26 July 2018, paras. II-109-111.

42 See: Constitution of Georgia, 24 August 1995, Arts. 13(2), 19(3), 22(2).

of political associations is prohibited. Internal constitutional limits are clearly implicit phenomena, as in this case, the specific circumstances of intervention are not defined at the normative level in the basic law; however, based on systematic interpretation of norms, intervention is presumed possible. For example, Article 12 of the constitution establishes the right to free personal development. While the norm is only one sentence and is declarative in nature, it implies that its restriction is possible considering the general principle – to protect the rights of others.

#### 4.2.2. *Assessment of Limitation of Fundamental Rights*

The Constitutional Court of Georgia evaluates the constitutionality of interference with fundamental rights through several tests. Depending on the statutory content, it may employ an assessment of legal certainty, evaluate the constitutionality of restrictive measures in relation to rights generally through the principle of proportionality, and consider a slightly different approach when assessing discrimination. The principle of proportionality requires that a restrictive act be a suitable and necessary means for achieving a legitimate public aim, and that the intensity of the rights restriction be proportional to the aim to be achieved.<sup>43</sup> These elements are cumulative and must exist together for public authority interference with fundamental rights to be constitutionally justified.<sup>44</sup>

According to the Constitutional Court of Georgia, the legitimate aim must have the ability to justify the restriction, and the aim itself must derive from the democratic values on which the state and society are based.<sup>45</sup> The restrictive norm must be a suitable means for achieving the legitimate public aim,<sup>46</sup> and there must be a logical connection between the mechanism established by the norm and the public aim.<sup>47</sup> When assessing necessity, the Constitutional Court considers the specifics of the fundamental right, intensity of restriction, consequences, and the number of persons subject to restriction.<sup>48</sup> The court examines whether there is a means of achieving the legitimate aim using a less restrictive measure.<sup>49</sup>

In constitutional disputes concerning the right to equality, the Constitutional Court of Georgia employs two types of approaches: strict scrutiny and rational differentiation. The court applies the strict scrutiny test in cases of (1) classical grounds of differentiation and (2) high intensity of interference with rights.<sup>50</sup> It termed the grounds listed in the constitutional equality provision (Article 11) as ‘classical grounds’, though the scope of grounds later expanded

43 Decision N3/1/512 of the Constitutional Court of Georgia, 26 June 2012, para. II-60.

44 Phirtskhalashvili, 2016, p. 19.

45 Decision N2/4/570 of the Constitutional Court of Georgia, 4 August 2016, para. II-17.

46 Decision N1/1/539 of the Constitutional Court of Georgia, 11 April 2013, para. II-30.

47 Decision N3/3/600 of the Constitutional Court of Georgia, 17 May 2017, para. II-48.

48 Decision N2/2/558 of the Constitutional Court of Georgia, 27 February 2014, para. II-52.

49 Decision N1/4/557,571,576 of the Constitutional Court of Georgia, 13 November 2014, para. II-31.

50 Eremadze, 2020, p. 53.

beyond the constitutional provision.<sup>51</sup> Despite not being mentioned in the constitutional norm, the Court considered sexual orientation as sufficient grounds for applying strict scrutiny, considering the degree of vulnerability of the persons concerned.<sup>52</sup> The degree of differentiation intensity is the determining factor in deciding which assessment test should be applied.<sup>53</sup> High-intensity treatment is evident when it focuses on the person rather than objective circumstances.<sup>54</sup> In practice, the strict scrutiny test involves evaluating the restrictive norm through the principle of proportionality, assessing how necessary the state's intervention was, and whether there exists a 'compelling state interest'.<sup>55</sup>

The Constitutional Court applies the rational differentiation test when (1) differentiation is not based on so-called classical grounds; and (2) the intensity of interference is not high.<sup>56</sup> Under this test, differentiated treatment must be (1) maximally realistic, inevitable, and necessary; and (2) there must be a real and rational connection between the objective reason for differentiation and its effect.<sup>57</sup> In any case, regardless of which test the Constitutional Court applies, the restriction defined by the disputed norm must have a legitimate public aim, and the chosen means must have a logical and rational connection to the aim.<sup>58</sup>

A norm may also be invalidated for lack of certainty. According to the Constitutional Court, the legislator is obligated to adopt precise, clear, and unambiguous norms; otherwise, human rights will be violated.<sup>59</sup> A norm must be sufficiently defined not only in terms of content but also in terms of subject matter, purpose, and scope of regulation.<sup>60</sup> It must meet qualitative requirements and not provoke its own violation.<sup>61</sup>

## 5. Protection of Fundamental Rights through Court

### ■ 5.1. *Judicial Mechanisms for the Protection of Fundamental Rights*

The protection of human rights is an obligation of all state bodies; rights bind public authorities and thereby ensure the implementation of directly applicable law. The Constitution of Georgia distinguishes between judicial and non-judicial

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51 Ibid.

52 See: Decision N2/1/536 of the Constitutional Court of Georgia, 4 February 2014.

53 Loladze and Phirtskhalashvili, 2023, p. 174.

54 Ibid., p. 175.

55 Decision N1/1/493 of the Constitutional Court of Georgia, 27 December 2010, para. II-6.

56 Eremadze, 2020, p. 60.

57 Decision N1/1/493 of the Constitutional Court of Georgia, 27 December 2010, para. II-7.

58 Decision N3/2/767,1272 of the Constitutional Court of Georgia, 14 December 2018, para. II-40.

59 See: Decision N1/3/407 of the Constitutional Court of Georgia, 26 December 2007.

60 Decision N2/3/406,408 of the Constitutional Court of Georgia, 30 October 2008, para. II-36.

61 Decision N1/1/625,640 of the Constitutional Court of Georgia, 14 April 2016, para. II-69.

institutions for the protection of fundamental rights. Judicial power is exercised by common courts and the Constitutional Court.<sup>62</sup> Common courts are judicial bodies, and their authority focuses on the legality of public authority acts (both individual and normative) and actions (real acts). Article 59 of the constitution of Georgia provides for the possibility of establishing specialised courts within the common courts system; however, no such practice exists, and according to Georgian legislation, justice is fully concentrated in the unified system of common courts.

Regarding human rights protection, the Constitutional Court's jurisdiction is limited to reviewing the constitutionality of normative acts.<sup>63</sup> In this respect, the Constitutional Court of Georgia does not follow the German model of constitutional review and does not oversee the constitutionality of common courts' decisions.<sup>64</sup> Moreover, from a formal perspective, only normative acts fall under its jurisdiction. However, through precedential practice, the court has expanded its jurisdiction and constitutional review to individual acts of a normative nature (which, although individually formatted, are normative in content and pose an increased risk from a human rights perspective).<sup>65</sup>

## 6. Human Rights and Constitutional Review in Georgia

### ■ 6.1. Responsibilities of the Constitutional Court of Georgia and Human Rights

The Constitutional Court of Georgia is a special constitutional institution that officially belongs to the judicial branch,<sup>66</sup> although it does not administer justice in the conventional sense. It is a judicial body of constitutional control,<sup>67</sup> exercising judicial power through constitutional proceedings.<sup>68</sup> This ensures its extraordinary nature and somewhat determines its political character:<sup>69</sup> it serves as an organ of compromise and reconciliation between branches of government, guaranteeing political peace and stability in the state.<sup>70</sup> Since its establishment, the Constitutional Court has developed dynamically, with its powers changing in line with constitutional reforms.<sup>71</sup> Initially, its activities were regulated by both the Constitution as well as the organic law 'On the Constitutional Court of Georgia' and the special law 'On Constitutional Proceedings'. These laws contained

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62 Constitution of Georgia, 24 August 1995, Art. 59(1).

63 Constitution of Georgia, 24 August 1995, Art. 60(4).

64 Javakhishvili, 2017, p. 264.

65 See: Ruling N1/4/1691 of the Constitutional Court of Georgia, 23 February 2023.

66 Constitution of Georgia, 24 August 1995, Art. 59(1).

67 Constitution of Georgia, 24 August 1995, Art. 59(2).

68 Constitution of Georgia, 24 August 1995, Art. 60(1).

69 See: Gegenava, 2012, pp. 32–42.

70 Gegenava et al., 2016, p. 299.

71 Javakhishvili, 2024, pp. 27–28.

duplications and overlapping legal norms, but in 2018, the Parliament of Georgia abolished the law ‘On Constitutional Proceedings’ and incorporated its norms into the organic law.<sup>72</sup> In this regard, the legislation governing the Constitutional Court has been formally refined, with the systematisation of norms resulting in the consolidation of material and procedural regulations related to constitutional review in one act: today, the organic law regulates both the court’s structure and powers and the status of the judges and their indemnity and immunity, as well as matters related to the consideration of constitutional complaints/submissions, and the adoption and enforcement of court decisions and other judicial acts. These topics are practically defined by the Rules of the Constitutional Court, which are approved by the plenum.<sup>73</sup> The Rules of the Constitutional Court is a supplementary document that regulates many important aspects of the Constitutional Court’s daily operations.

The powers of the Constitutional Court of Georgia are enumerated in the Constitution,<sup>74</sup> with several additional powers defined by the organic law.<sup>75</sup> Based on these two acts, the powers are established by the *numerus clausus* principle, and appeals to the court are permissible within these limits.<sup>76</sup> Several directions of the Constitutional Court’s activities can be distinguished: 1) control of constitutionality of norms/acts; 2) competence disputes between state bodies; 3) mandatory participation in impeachment procedures of constitutionally defined officials regarding determination of constitutional violations or elements of crime in their actions; 4) control of constitutionality of political parties’ establishment and activities; 5) assessment of recognition or termination of status of a Member of the Parliament (MP); and 6) control of violations of the constitutional law governing autonomous republics and compliance of normative acts of the Supreme Council of autonomous republics with this constitutional law. However, in terms of human rights protection, the most important remains the control of constitutionality of norms/acts, which it exercises based on complaints/submissions from various initiators/plaintiffs according to procedures established by law.

### ■ 6.2. Concrete and Abstract Constitutional Review

The Constitutional Court of Georgia does not have the right of self-initiative; constitutional proceedings are always based on a constitutional complaint or submission initiated by an appropriate subject.<sup>77</sup> Concrete constitutional control

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72 See: Organic Law N3265-6b of Georgia “On Amending Organic Law on the Constitutional Court of Georgia”, 21 July 2018.

73 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 54.

74 Constitution of Georgia, 24 August 1995, Art. 60(4).

75 See: Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 19(1).

76 Gegenava and Goradze, 2021, p. 254.

77 Javakhishvili, 2024, p. 66.

is the most common and primary form of constitutional dispute in Georgia. The range of plaintiffs in disputes related to fundamental rights is not restricted:<sup>78</sup> any natural person or legal entity, as well as the Public Defender of Georgia, can file a constitutional complaint.<sup>79</sup> Initially, all legal entities did not have the right to file constitutional complaints, but with the 2002 legislative amendments, legal entities registered in Georgia officially gained this opportunity,<sup>80</sup> and in 2010, the Constitutional Court of Georgia expanded the range of potential plaintiffs through its own decision, allowing any legal entity to initiate constitutional disputes.<sup>81</sup>

In constitutional proceedings, the plaintiff must justify a genuine interest in initiating the dispute: the contested norm either restricts or is highly likely to restrict their rights in the foreseeable future.<sup>82</sup> A constitutional complaint must address a specific article or provision in Chapter Two of the Constitution; complaints referring generally to the human rights chapter are inadmissible and will not be considered by the Constitutional Court.<sup>83</sup>

The Public Defender's constitutional complaint represents an indirect form of individual access to constitutional justice and essentially serves the same purpose as an individual constitutional claim.<sup>84</sup> However, there is a significant difference between them: the Public Defender's constitutional claim does not require proving that someone's rights have been violated or that violation is inevitable in the future.<sup>85</sup> It is the Ombudsman's exclusive authority to challenge a norm on the assumption that the rule is unconstitutional and thus hypothetically poses a threat. Constitutional disputes initiated by the Public Defender have significantly contributed to the development of the Georgian Constitutional Court's practice regarding human rights and improved the standard of rights protection.

The Constitutional Court of Georgia implements abstract constitutional control. From a formal perspective, this involves verifying the compliance with procedures for adopting and issuing legal acts by public authorities (signing, publication, and enactment), while in terms of material control, the court examines the compliance of the content of the norm with the Constitution.<sup>86</sup>

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78 Gegenava and Goradze, 2021, p. 256.

79 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 39(1).

80 Javakhishvili, 2024, p. 272.

81 See: Decision N1/486 of the Constitutional Court of Georgia, 28 June 2010.

82 See: Decision N1/2/1447 of the Constitutional Court of Georgia, 22 February 2024, para. II-2, II-4.

83 See: Ruling 3/7/831 of the Constitutional Court of Georgia, 28 December 2016, para. II-2; Ruling N1/4/644 of the Constitutional Court of Georgia, 14 April 2016, para. II-2; Ruling N1/2/541 of the Constitutional Court of Georgia, 27 February 2013, para. II-2; Decision N1/1/413 of the Constitutional Court of Georgia, 1 March 2007, para. 8.

84 Javakhishvili, 2024, p. 274.

85 Decision N2/6/418 of the Constitutional Court of Georgia, 4 December 2007.

86 Gegenava and Goradze, 2021, p. 258.

This form of control is connected to the practical realisation of the rule of law and constitutional supremacy.<sup>87</sup>

Owing to the specifics of abstract control, the exercise of this authority is not tied to specific court disputes or the protection of a plaintiff's rights.<sup>88</sup> Only designated subjects can initiate it, and consequently, they bear the burden of proof: they must indicate both the demand and relevant norms and argumentation.<sup>89</sup> The main plaintiffs can be the President of Georgia, the Government of Georgia, and no less than one-fifth of the Members of Parliament.<sup>90</sup> However, there are special cases: disputes regarding violations of the constitutional law 'On the Autonomous Republic of Ajara'; issues of compliance of normative acts of the Supreme Council of the Autonomous Republic of Ajara with the Constitution of Georgia and the Constitutional Law 'On the Autonomous Republic of Ajara'; constitutional disputes initiated by local self-government; and disputes initiated by the High Council of Justice.<sup>91</sup>

Within the framework of individual constitutional complaint, as well as in cases of abstract control, the Constitutional Court exercises *a posteriori* constitutional review,<sup>92</sup> meaning that regarding human rights, only enacted and active normative acts can be subject to constitutional control,<sup>93</sup> and the Georgian Constitutional Court lacks the ability to review the constitutionality of draft laws.<sup>94</sup> Abstract constitutional control is also only *ex post*.<sup>95</sup> The Constitutional Court exercises *a priori* constitutional review only over international treaties that require ratification.<sup>96</sup> In this case, constitutional submissions can be filed before the ratification of the treaty.<sup>97</sup> International treaties that do not require ratification are subject to *ex post* or *a posteriori* constitutional review.<sup>98</sup>

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87 See: Decision N3/5/768,769,790,792 of the Constitutional Court of Georgia, 29 December 2016, para. II-111; Decision N1/466 of the Constitutional Court of Georgia, 28 June 2010, para. II-18; Khetsuriani, 2020, p. 38.

88 Gegenava and Goradze, 2021, p. 257.

89 Ruling N3/2/602 of the Constitutional Court of Georgia, 4 July 2014, para. II-4, II-11.

90 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 33(1).

91 See: Javakhishvili, 2024, pp. 302–311.

92 *Ibid.*, p. 269.

93 Ruling N1/494 of the Constitutional Court of Georgia, 28 December 2010, para. II-9.

94 Javakhishvili, 2024, p. 270.

95 *Ibid.*, 289.

96 *Ibid.*

97 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 38(2).

98 Javakhishvili, 2024, p. 328.

## 7. Particular Issues of the Constitutional Proceedings

Constitutional proceedings are highly specific proceedings through which the Constitutional Court of Georgia implements constitutional review.<sup>99</sup> They resemble legal processes from various fields of law, where a person enjoys procedural rights and obligations – essentially the full procedural spectrum granted by the organic law.<sup>100</sup> Constitutional proceedings are based on the principles of legality, equality of parties, and adversarial process;<sup>101</sup> however, simultaneously, owing to the idea of constitutional control, great importance is attached to public interest and the idea of constitutional supremacy, which in some cases, grants the Constitutional Court broad judicial discretion. For example, the Constitutional Court is authorised to continue legal proceedings and decide on the constitutionality of a disputed normative act that has been abolished or declared void if the court considers its resolution important for ensuring human rights and freedoms.<sup>102</sup> The court can also, on its own initiative, request evidences, obtain necessary information from relevant institutions, invite specialists, etc.<sup>103</sup> The Constitutional Court of Georgia has exercised such authority multiple times.<sup>104</sup>

### ■ 7.1. *Suspension of the Disputed Norm*

Decisions of the Constitutional Court of Georgia do not apply to legal relationships that arose before their adoption, which is why the mechanism for suspending the operation of a disputed norm is particularly important and may be the only means for responding to rights violations or preventing inevitable and irreversible violations.<sup>105</sup> The norm suspension mechanism was introduced into legislation in 2002, empowering the Constitutional Court to suspend the operation of a disputed act or part thereof until a decision is made or for a shorter period, and also to review the suspension decision during the proceedings either at a party's request or on its own initiative.<sup>106</sup>

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99 Gegenava and Javakhishvili, 2022, p. 12.

100 Gegenava and Goradze, 2021, p. 267.

101 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 2.

102 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 29(7).

103 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 24(2).

104 See: Decision N2/1/370,382,390,402,405 of the Constitutional Court of Georgia, 18 May 2007, para. I-3; Decision N1/3/1263 of the Constitutional Court of Georgia, 18 April 2019, para. II-18.

105 Decision N3/2/577 of the Constitutional Court of Georgia, 24 December 2024, para. II-31-32.

106 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 25(5).

While the power to suspend the operation of a norm is granted to the Constitutional Court by legislation,<sup>107</sup> the specific cumulative circumstances under which the court uses this instrument have been determined through case-law.<sup>108</sup> Within the framework of constitutional proceedings, the following prerequisites must exist for suspending a disputed norm: 1) a real and immediate threat of irreparable damage to fundamental rights and freedoms or public interest; 2) the suspension must be capable of preventing irreparable consequences for the plaintiff; and 3) the suspension must not risk unjustifiably restricting third-party rights or public interests.<sup>109</sup>

The Constitutional Court of Georgia does not use the norm suspension mechanism very actively: there are relatively few instances in constitutional proceedings where the court has granted a plaintiff's motion and suspended the operation of a disputed norm.<sup>110</sup>

### ■ 7.2. *Declaring a Norm Unconstitutional*

A norm or act declared unconstitutional by the Constitutional Court annuls from the moment of publication of the respective decision, unless the court itself sets a different, later date.<sup>111</sup> It may link the enforcement of its decision to specific circumstances or legal interests that ensure the prevention or reduction of damage to the state and individuals.<sup>112</sup> Publication of the decision is considered to be its posting on the official website of the Constitutional Court of Georgia.<sup>113</sup> The Court's decision is final<sup>114</sup> and cannot be appealed, and a failure to comply with it is punishable by law.<sup>115</sup> It is prohibited to adopt any legal act that contains the content of a norm already declared unconstitutional by the Constitutional Court.<sup>116</sup>

### ■ 7.3. *Distributing Cases, the Procedural Role of the Chairman of the Constitutional Court, and the Reporting Judge*

The chairman (president) of the Constitutional Court of Georgia not only formally leads the court but is also vested with significant administrative and

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107 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 25(5).

108 Javakhishvili, 2024, p. 191.

109 Decision N3/2/577 of the Constitutional Court of Georgia, 24 December 2024, para. II-31-35.

110 See: Javakhishvili, 2024, pp. 190–191.

111 Constitution of Georgia, 24 August 1995, Art. 60(5).

112 Javakhishvili, 2022, p. 49.

113 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 25(6).

114 Constitution of Georgia, 24 August 1995, Art. 60(4).

115 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 25(1).

116 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 25(4).

procedural powers.<sup>117</sup> The judges themselves elect the chairman from among the Constitutional Court judges for a term of five years.<sup>118</sup> The chairman exercises full administrative authority regarding Constitutional Court personnel, apparatus operations, management of budgetary allocations, etc. The president distributes cases, appoints reporting judges for plenary sessions, leads the plenum, presides over its sessions, and so forth.<sup>119</sup> He, as a judge, participates in the consideration of cases that fall under the plenum's jurisdiction. In such cases, the president not only presides over the session but also directly participates in the legal proceedings.

The chairman distributes complaints and submissions among the chambers by resolution, and if a case is to be considered by the plenum, transfers it to the plenum and appoints a reporting judge.<sup>120</sup> The court operates an automatic, electronic system that selects reporting judges in alphabetical order after a case is distributed to the relevant chamber/plenum,<sup>121</sup> after which the respective chamber chairperson (or the chairman in case of the plenum) issues a resolution appointing the selected person as the reporting judge.<sup>122</sup> The electronic system is not used if the dispute relates to a case already transferred to a chamber/plenum and it is expedient to appoint the same person as reporter for the new complaint/submission.<sup>123</sup> A reporting judge may be changed if at any stage of the proceedings, the person is removed from case consideration, or if different cases are consolidated (in this case, the judge who was appointed as reporter for the earliest of the consolidated complaints/submissions will be appointed as reporter).

Georgian legislation does not explicitly define the rights and duties of a reporting judge in constitutional proceedings through a single detailed norm. However, through systematic interpretation of various norms, several important functions can be identified. The substantive hearing of a case begins with the reporting judge's presentation, which covers the initiation of proceedings in the Constitutional Court, the grounds for substantive consideration, and the content of case materials; additionally, they are obligated to answer questions from the judges reviewing the case.<sup>124</sup> The reporting judge is responsible for preparing and presenting drafts of judicial acts (both interim and final decisions);<sup>125</sup> however, this does not automatically mean that the reporting judge writes the decision in every

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117 Gegenava et al., 2014, p. 301.

118 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 10(1)-10(3).

119 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 12(1), Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 8(1).

120 Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 13(2).

121 Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 14(1).

122 Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 14(2).

123 Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 14(3).

124 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 276(1)(a).

125 Rules of the Constitutional Court of Georgia, 6 March 2020, Art. 36(3).

case – if the draft presented by the reporting judge is not supported, the majority judges write an alternative draft in agreement with each other.<sup>126</sup> The Rules of the Constitutional Court retain the possibility for the chairperson of the chamber/plenum to assign the preparation of a judicial act draft to another judge involved in the case review.<sup>127</sup>

## 8. Relationships between the Constitutional Court and Common Courts

### ■ 8.1. *The Constitutional Court and Common Courts: Separation of Responsibilities in the Protection of Human Rights*

The jurisdictions of common courts and the Constitutional Court are strictly separated. The Constitutional Court is vested with exclusive authority of constitutional review; it is the guardian of the Constitution, the guarantor of its supremacy, and the primary state body responsible for constitutional legality in Georgia. In terms of human rights protection, its jurisdiction extends to reviewing and deciding on the constitutionality of normative acts or parts thereof.

Individual acts, real acts, and common courts' decisions are beyond constitutional review. There is one exception to this: according to the established case-law of the Constitutional Court of Georgia, it will accept for consideration complaints regarding the constitutionality of an individual act if the act is of a normative nature<sup>128</sup> and substantively carries the same risk and potential for rights violations.

Common courts have jurisdiction over all other disputes concerning fundamental rights where the subject matter is not the constitutionality of a normative act, but rather the formal and material legality of acts or actions (real acts).

### ■ 8.2. *Constitutionality of the Normative Content of the Norm*

In 2011, the Constitutional Court first expanded the scope of constitutional review and declared not the norm itself but the normative content of a provision unconstitutional,<sup>129</sup> effectively granting itself new authority and, to some extent, beginning to exercise constitutional control over the actual administration of justice.<sup>130</sup> The separation of a provision from its normative content was prompted by the fact that the norm itself was formally constitutional, but its practical application and the meaning assigned to it by its authentic interpreter contradicted the

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126 Rules of the Constitutional Court of Georgia, Art. 36(7).

127 Rules of the Constitutional Court of Georgia, Art. 36(12).

128 See: Ruling N1/4/1691 of the Constitutional Court of Georgia, 23 February 2023.

129 Decision N1/1/477 of the Constitutional Court of Georgia, 22 December 2011.

130 See: Javakhishvili, 2017.

Constitution.<sup>131</sup> Along with the general constitutional norms, the legal basis for establishing control over the normative content of the norm can be considered the organic law provision, according to which the Constitutional Court, when reviewing a normative act, considers both the literal content of the disputed norm as well as its purpose and practical application.<sup>132</sup>

The Constitutional Court decided to create better guarantees for protecting fundamental rights by maximising the use of its mandate.<sup>133</sup> By exercising constitutional review over the normative content of norms, it also prevents the practice of incorrect, unconstitutional application of norms.<sup>134</sup> In many cases, the normative content of a provision is determined by common courts; thus, by reviewing the constitutionality of norm application, the Constitutional Court only indirectly reviews the application of norms by common courts,<sup>135</sup> which does not imply direct constitutional control over the administration of justice.

Until 2015, the normative content of a provision was declared unconstitutional only once; however, in the last decade, there have been almost two dozen such cases in the practice of constitutional proceedings.

### ■ 8.3. *Constitutional Submission of the Common Courts*

When hearing a case in a common court, if the court considers that a norm to be applied in resolving the dispute may be unconstitutional, it can suspend the proceedings and refer to the Constitutional Court requesting a review of the constitutionality of the norm.<sup>136</sup> The constitutional submission must directly arise from the case under consideration; otherwise, the Constitutional Court will not accept it for review.<sup>137</sup>

Beyond their formal placement in the same chapter of the Constitution and their attribution to judicial power, the constitutional submission institution is what actually connects the Constitutional Court and common courts.<sup>138</sup> It represents a special form of dialogue between the courts.<sup>139</sup> Constitutional submission allows common courts to verify the constitutionality of norms on which they must base their decisions,<sup>140</sup> effectively preventing case resolution based on unconstitutional norms.<sup>141</sup>

131 See: Gegenava, 2017, pp. 90–91.

132 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 26(3).

133 Eremadze, 2018, p. 389.

134 Javakhishvili, 2017, p. 226.

135 Javakhishvili, 2022, p. 89.

136 Organic Law N95 of Georgia “On the Constitutional Court of Georgia”, 31 January 1996, Art. 19(2).

137 Gegenava and Goradze, 2021, p. 258.

138 Zoidze, 2007, p. 188.

139 Davituri and Davitashvili, 2021, p. 13.

140 Javakhishvili, 2022, p. 50.

141 See: Ruling N3/7/1286 of the Constitutional Court of Georgia, 15 December 2023, para. II-14.

The Constitutional Court of Georgia has been operating since 1996,<sup>142</sup> and in 1997, it reviewed its first constitutional submission.<sup>143</sup> To date, the number of constitutional submissions from common courts has reached several dozen. However, it is noteworthy that this dynamic has not been uniform. Between 2004 and 2014, no common court judge utilised the possibility of constitutional submission.<sup>144</sup> The practice resumed in the following period. The majority of submissions concerned drug-related crimes<sup>145</sup> and became particularly relevant after the Constitutional Court declared imprisonment for marijuana use unconstitutional.<sup>146</sup> Most constitutional submissions in the last decade were connected to the legal reality created by various Constitutional Court decisions, and almost all of them, except one, addressed fundamental human rights and Chapter Two of the Constitution.<sup>147</sup>

#### ■ 8.4. *Effect of the Constitutional Court on Common Courts*

The effect of the Constitutional Court's decision is *erga omnes* and is not limited only to parties participating in the constitutional dispute.<sup>148</sup> The binding nature of its decision implies both its direct legal effect and the consideration of the decision's content and argumentation by common courts in their practice.<sup>149</sup> The Constitutional Court's process of interpreting constitutional norms is of particular importance for common courts.<sup>150</sup> While constitutional review only has indirect legal force over Georgia's common courts,<sup>151</sup> as not only legal norms but also their interpretations must comply with the Constitution,<sup>152</sup> it is logical that common courts are obligated to interpret the current legislation they use in proceedings in accordance with the Constitution.<sup>153</sup>

The Constitutional Court is vested with *ex tunc* constitutional review responsibility. Its declaration of a norm as unconstitutional cannot automatically nullify decisions made by common courts based on the same norm;<sup>154</sup> it will only suspend the enforcement of the common courts' act.<sup>155</sup>

142 Khetsuriani, 2022, pp. 448–449.

143 See: Ruling N2/49/1 of the Constitutional Court of Georgia, 27 May 1997.

144 Davituri and Davitashvili, 2021, p. 14.

145 *Ibid.*, p. 15.

146 See: Decision N1/4/592 of the Constitutional Court of Georgia, 24 October 2015.

147 Davituri and Davitashvili, 2021, p. 20.

148 Javakhishvili, 2022, p. 47.

149 *Ibid.*, p. 50.

150 Gegenava, 2013, p. 106.

151 Javakhishvili, 2022, p. 84.

152 Zoidze, 2007, p. 63.

153 Decision N1/1/428,447,459 of the Constitutional Court of Georgia, 13 May 2009, para. II-17.

154 Organic Law N95 of Georgia "On the Constitutional Court of Georgia", 31 January 1996, Art. 20.

155 Case of Apostol v. Georgia, Application No. 40765/02, Judgement 28 February 2007, para. 43.

## 9. Conclusion

The Constitution of Georgia serves as the foundational framework for human rights protection. Its second chapter is comprehensively dedicated to fundamental human rights. Furthermore, Article 4(2) of the Constitution encompasses a pivotal provision stipulating that the Constitution does not renounce universally recognised human rights and freedoms not explicitly enumerated within its text, but which inherently derive from constitutional principles.

The Georgian legal architecture provides specialised human rights protection institutions designed to safeguard constitutionally guaranteed rights and facilitate the remediation of rights violations. Preeminent among these is the Constitutional Court, to which both natural and legal persons retain the right of appeal upon perceiving a fundamental rights infringement. It plays a pivotal role in the national system of human rights protection. This is due to its broad competences in both abstract and concrete constitutional review, as well as its exclusive authority to declare a normative act unconstitutional – thereby performing the function of a negative legislator. Over the years, the Court has developed a range of doctrinal approaches that have expanded and clarified the substance of constitutional norms and rights, including the permissible scope of interferences with those rights. Particularly noteworthy is the Court's review of a norm's normative content, which operates as an effective mechanism.

While constitutional adjudication and human rights protection in Georgia continue to face significant challenges, the Constitutional Court's accumulated experience and diverse case law indicate that – under appropriate legislative and political conditions – the Court can realistically ensure the high level of human rights protection that follows from, and is expected by, the Constitution's underlying rationale and purpose.

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