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**CONSTITUTIONAL SUBMISSION  
OF THE SUPREME COURT OF GEORGIA  
ON CONSTITUTIONALITY OF ARTICLE 546  
AND THE FIRST SECTION OF ARTICLE 518  
OF THE CRIMINAL PROCEDURE CODE  
OF GEORGIA ADOPTED ON FEBRUARY 20, 1998**

N3/3/601

Batumi, December 24, 2014

***Composition of the Plenum:***

Giorgi Papuashvili – Chairman of the Hearing, Judge Rapporteur;  
Ketevan Eremadze – Member;  
Konstantine Vardzelashvili – Member;  
Zaza Tavadze – Member;  
Maia Kopaleishvili – Member;  
Otar Sichinava – Member;  
Lali Papiashvili – Member;  
Tamaz Tsabutashvili – Member.

***Secretary of the Hearing:***

Darejan Tsaligava

***Title of the Case:***

Constitutional Submission of the Supreme Court of Georgia on constitutionality of article 546 and the first section of article 518 of the Criminal Procedure Code of Georgia adopted on February 20, 1998.

***Subject of the Dispute:***

Constitutionality of article 546 of the Criminal Procedure Code of Georgia (adopted on February 20, 1998) and normative part of the first section of article 518 of the same code which restricts possibility of the acquitted person to appeal the court judgment with respect to the first paragraph of article 42 of the Constitution of Georgia.

**I**

**Descriptive Part**

1. On June 16, 2014 Constitutional Submission (Registration N601) was lodged to the Constitutional Court of Georgia by the Supreme Court of Georgia (Judges - Maia Oshkhareli, Paata Silagadze and Giorgi Shavliashvili). Preliminary session of the Plenum of the Constitutional Court without oral hearing was held on July 4, 2014 for ruling on admission of the case for consideration on merits.
2. The legal basis indicated in the submission for lodging the constitutional

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submission is: paragraph 2 of article 19 of the organic law of Georgia “On the Constitutional Court of Georgia” and paragraph 3 of article 7 of the Law of Georgia “On Constitutional legal proceeding”.

3. Article 546 of the Criminal Procedure Code of Georgia adopted on February 20, 1998 defines that subject of appeal to the Court of Cassation are individuals indicated in article 518 of the same law. According to section 1 of the article 518 appeal to the court of appeals can be lodged by state prosecutor, supervising prosecutor, victim, convicted person, defence council, legal representative of a victim and a convicted person.

4. According to paragraph 1 of article 42 of the Constitution of Georgia every person shall have the right to apply to the court for protection of his/her rights and freedoms.

5. The Constitutional Submission indicated that on the June 13, 2014 the Supreme Court of Georgia decided to stay proceeding on the appeal submitted by Boris Ivanov, person acquitted by lower court, and referred Constitutional Submission to the Constitutional Court.

6. According to the Constitutional Submission, Boris Ivanov was declared guilty by the judgment of criminal Board of the Tbilisi City Court delivered on July 26, 2013 and punishment of imprisonment for 8 years was imposed on him. On December 28, 2012 based on article 8 of the Georgian law “On Amnesty” he was freed from the punishment and restrictive measure - detention used against him was terminated. According to the court Judgment the payment maid as a bail was transferred to the state budget. The convicted person appealed the Judgment to the court of appeals and demanded acquittal from the court.

7. The judgment of criminal board of the Tbilisi City Court (delivered on July 26, 2013) declaring accused guilty was reversed by the judgment of the Chamber of Criminal cases of Tbilisi Court of Appeals delivered on April 3, 2014 and Boris Ivanov was acquitted. However, the payment maid as a bail was transferred to the state budget according to this Judgment as well.

8. According to the Constitutional Submission Boris Ivanov appealed judgment of the Chamber of Criminal cases of Tbilisi Court of Appeals delivered on April 3, 2014 to the Court of Cassation only in the part relating to the transfer of bail payment amounting GEL 100000 to the state budget and requested return of the paid sum.

9. The author of the Constitutional Submission claims that based on the disputed provisions individual which was acquitted by court judgment is not allowed to appeal the judgment to the Court of Appeals and the Supreme Court; therefore, the provisions restrict his/her constitutional right to apply to the court guaranteed under article 42 of the Constitution of Georgia. The author of the Submission considers that the person declared not guilty might have certain legal interest in the review of the case by the higher instance court. Furthermore, the interest on review might be derived from the circumstances,

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which are not directly related to the assessment of commission of crime but from other issues, which relate to his/her legal interest and was decided by the Judgment.

10. Based on all above mentioned, the Supreme Court of Georgia considers that normative part of the disputed provisions restricting the possibility of the person acquitted by court judgment to appeal the court judgment contradicts article 42 of the Constitution of Georgia.

11. Additionally, the Author of the Submission refers to the precedents of the Constitutional Court of Georgia and European Court of Human rights in order to substantiate his argumentation.

12. On September 17, 2014 representative of the Parliament of Georgia submitted written opinion to the Constitutional Court and indicated that the Criminal Procedure Code contains mechanism, alternative to the appeal of Judgment, for protection of rights of person acquitted by court judgment. Namely he/she is entitled to the rehabilitation and reparation of damages caused by illegal and unreasoned actions of the entities of the criminal proceeding. The committee of legal issues indicates that when individual is acquitted by court judgment he is automatically considered to be an illegally detained and accused. Furthermore, the Parliament of Georgia considers that the acquittal judgment constitutes decision on rehabilitation of a person and after that only volume and form or reparable damage is determined.

13. The parliament indicates in his written opinion that when bail is used and bail payment is transferred into the state budget due to beaching of the bail conditions, transferred money should be returned if acquittal court judgment is delivered.

14. The Parliament considers that person acquitted by the court cannot have any legal interest to appeal court judgment, besides issues related to rehabilitation. Furthermore, in the present case paragraph 3 of article 1005 of the Civil Code of Georgia can be considered as alternative mechanism for reparation of damage. Based on this provision reparation of damages caused by relevant agencies to the rehabilitated person is ensured according to the civil legal proceeding.

15. In response of the mentioned arguments of the Parliament the Supreme court of Georgia indicates, that declaring accused not guilty by the Judgment of the court, does not by itself entail illegal character of the pre-trial detention (in case it was used). The court judgment declaring person not guilty cannot remedy every possible action, which took place against him during the prosecution of crime and court proceeding. The Supreme Court indicates that each mentioned procedural act has independent legal grounds for its use and execution and it is considered legal if relevant circumstances exist.

16. The Supreme Court of Georgia also indicated in its written opinion that transfer of money paid as a bail to the state budget has imperative character and judge is obliged to authorise it in case the accused breaches conditions of bail.

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If the mentioned conditions are breached it is unimaginable the acquittal court judgment to become guarantee for changing the breach of conditions of bail and return of transferred bail payment to the individual.

17. Regarding paragraph 3 of the article 1005 of the Civil Code of Georgia, the Supreme Court indicates, that in order for the right on reparation of damage caused by restrictive measures to exist, mentioned provision requires breach of law by authorising court, while delivering the court judgment declaring person not guilty does not by itself imply illegal use of restrictive measures during the proceeding. Use of restrictive measures can be considered unlawful, only if it is declared to be so within the same type of proceeding (legal proceeding conducted on the criminal case).

18. Based on all above mentioned the Supreme Court of Georgia does not agree with the written opinion presented by the Legal Committee of the Parliament of Georgia and considers that the disputed provisions contradict paragraph 1 of article 42 of the Constitution of Georgia.

## **II**

### **Reasoning Part**

1. In the present dispute the Constitutional Court shall determine whether regulations established under paragraph 1 of article 518 and article 546 of the Criminal Procedure Code constitutes interference within the right to apply to the court guaranteed by paragraph 1 article 42 of the Constitution of Georgia and whether the regulation contradicts constitutional requirements.

2. According to the paragraph 1 of article 42 of the Constitution of Georgia “Everyone shall have the right to apply to the court for protection of his/her rights and freedoms”. This constitutional provision guarantees the right to a fair trial. Complete realisation of the right to a fair trial has fundamental importance for functioning of the state based on the Rule of Law.

3. The constitutional Court has repeatedly indicated importance of the constitutional right to apply to the court. “Right of access to the court is the constitutional guarantee of the utmost importance, which protects individual rights and freedom and secures principles of rule of law state and separation of power. This right is instrument for the protection of other rights and interest on one hand, and constitutes the crucial part of the architecture of checks and balances between the branches of power on the other” (Judgment N1/3/421,422 of the Constitutional Court of Georgia, on the case of “Citizens of Georgia Giorgi Kipiani And Avtandil Ungiadze v. the Parliament of Georgia”, dated November 10, 2009, II-1).

4. The constitutional Court has also indicated that “right to fair trial ... guarantees effective realisation of constitutional rights and ensures the protection against unreasonable interference with rights” (Judgment N1/1/403,427 of the Constitutional Court of Georgia, on the case of “ Citizen of Canada – Hussein

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Ali and citizen of Georgia – Elene Kirakosian v. the Parliament of Georgia”, dated December 19, 2008, II-1).

5. Creation of adequate guarantees for realisation of human rights and freedoms is the most fundamental requirement of the state based on the Rule of Law. “Therefore, right to a fair trial as a measurement of the implementation of principle of rule of law, it implies judicial protection of any value which essentially constitutes rights. The possibility of judicial protection constitutes crucial guarantee for full realization of a right. If there is not possibility, legal instrument, for avoidance of breach of right or restoration of already breached right the exercise of the right itself will become questionable (Judgment N3/1/466 of the Constitutional Court of Georgia, on the case of “The Public Defender of Georgia v. the Parliament of Georgia”, dated June 28, 2010, II-14).

6. According to the definition of the Constitutional Court “right to fair trial is composed of several legal components, the totality of which must ensure, on the one hand, real possibility of people to fully and adequately protect and restore their rights, and, on the other hand, protect a person from arbitrariness of the state in case of state’s intervention into an individual’s rights and freedoms. Consequently, it is constitutional duty of the State to provide sufficient substantive and procedural guarantee for each legal component of the right to fair trial (Judgment N3/2/574 of the Constitutional Court of Georgia, on the case of “Citizen of Georgia Giorgi Ugulava v. the Parliament of Georgia “, dated May 23, 2014, II-59).

7. The possibility to appeal court judgment is an important element of right to a fair trial. Access to court will not be complete instrument for protection of right if individual does not have right to demand a review of court judgment. According to the precedents of the Constitutional Court “paragraph 1 of article 42 of the Constitution of Georgia envisages not only consideration of the case at the first instance court, but also right to appeal to the upper instance court” (Judgment N3/1/466 of the Constitutional Court of Georgia, on the case of “The Public Defender of Georgia v. the Parliament of Georgia”, dated June 28, 2010, II-14). Article 42 of the Constitution arms individual with a guarantee to appeal judgments adopted by the first instance court and this way it protects him/her from violation of right due to the unreasoned and unlawful court judgments.

8. According to the precedents of the Constitutional Court right to appeals court judgment fulfils preventive function, on the one hand it constitutes effective mechanism for protection of a right and ensures avoidance of possible judicial mistakes and on the other hand creates possibility to remedy mistakes which were already made. Furthermore, comprehensive realisation of right to appeal facilitates establishment of uniform court practice and plays an important role for ensuring legal security.

9. Paragraph 1 of article 42 of the Constitution of Georgia creates constitutional guarantee of the right to a fair trial and implies every legal mechanism, which ensures the possibility of comprehensive and effective judicial protection

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of rights and legal interests. The system of judicial protection of a right established under paragraph 1 of article 42 of the Constitution enshrines accessibility to the judicial institutions guaranteed by the Constitution. The Supreme Court of Georgia constitutes extremely important constitutionally established judicial institution. The role of the Supreme Court of Georgia within the judicial power is defined by the Constitution itself. According to paragraph 1 of article 90 of the Constitution of Georgia the Supreme Court is the court of cassation. The accessibility to the Supreme Court, as court of cassation established by the Constitution, is protected under paragraph 1 of article 42 of the Constitution. It is possible the right to access to court of cassation to be qualified by specific constitutional law standards, but within the present case the Constitutional Court does not face the necessity to fully interpret the right to apply to the court of cassation.

10. The constitutional Court establishes special requirement for realisation of the right to fair trial within the procedure involving imposition of punishment on person or usage of restrictive measures against him/her. “Protection of the right established under paragraph 1 of article 42 of the Constitution of Georgia should be guaranteed for any person against whom state uses measures consisting coercive element, notwithstanding the legal status of the individual within court proceeding. The regulation, which excludes every mechanism to apply to the court, contradicts to the essence of the right protected under paragraph 1 of article 42 of the Constitution of Georgia and cannot be justified by a legitimate aim” (Judgment N2/2/558 of the Constitutional Court of Georgia, on the case of “Citizen of Georgia Ilia Chanturaia v. the Parliament of Georgia.”, dated February 27, 2014, II-57).

11. In order to prevent danger of violation of human rights in the legal proceeding related to responding on offence and imposition of punishment, existence of effective system of human right protection is necessary. As it has already been indicated, comprehensive exercise of right to a fair trial and procedural guarantees has crucial importance within the proceeding involving imposition of punishment. During the proceeding involving imposition of punishment, individual shall not be object of legal proceeding and it shall be armed with defence mechanism, required by the right to a fair trial.

12. Furthermore, the court judgment enacted as a result of the mentioned proceeding is potentially restricting the right of an individual. The possibility of delivery of unlawful and unreasoned judgment cannot be excluded during the exercise of judicial power. The right of appeal the court judgment aims to avoid such dangers. The provision restricting the right of an individual to appeal court judgment, which involves possible violation of his/her rights, constitutes interference within the right to a fair trial guaranteed under paragraph 1 of article 42 of the Constitution of Georgia.

13. In the present case the disputed provisions forbid appeal of the court judgment delivered on criminal case by person acquitted by the court. It should

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be mentioned the in the present case the Supreme Court of Georgia questions the constitutionality of the provision which restricts right to appeal of court judgment delivered on criminal case to both the Court of Appeals and the Supreme Court. Based on paragraph 2 of article 19 of the organic law of Georgia “On Constitutional Court of Georgia” general court is authorised to refer the submission to the Constitutional Court demanding declaring unconstitutional provisions which shall be used for adjudication on the case before it. Since the court adjudicating on the criminal case considered that it needs to apply both the provision, which forbids appeal to the Court of Appeals and the provision, which restricts appeal to the Supreme Court the Constitutional Court will assess constitutionality of both provisions.

14. According to article 546 of the Criminal Procedure Code of Georgia subjects who can appeal to the Court of Cassation are individuals indicated in article 518 of the same code. Section 1 of article 518 lists subjects who can appeal to the Court of Appeals. The subjects are state prosecutor, supervising prosecutor, victim, convicted person, defence council, legal representative of a victim and a convicted person. The author of the Constitutional Submission claims that the mentioned provisions exclude possibility of person acquitted by the court to appeal to the Court of Appeals and the Court of Cassation. The mentioned interpretation of the disputed provision is not objected by the representative of the Respondent, the Parliament of Georgia.

15. Generally, matters related to the criminal responsibility of the person are decided by the court judgment delivered on criminal case. With this document judge defines whether incriminated act is committed by an individual and which punishment should be imposed on him/her. In the present case right to appeal is restricted to the person declared not guilty, i.e. the person whose criminal act was not proven and therefore the acquittal judgment was delivered with regards to him/her. Based on the nature and essence of the acquittal judgment it can be stated that it does not imply risks of unlawful punishment of an individual, since mentioned judicial act involves discharge from criminal responsibility not imposing it. However author of the Constitutional Submission indicates that individual might still have legal interest to appeal the judgment. This interest might be derived from any issue determined by the judgment, which is not directly related to the commission of criminal act, but might still have potential to restrict his/her right.

16. On the criminal case indicated by the author of the Constitutional Submission although commission of criminal act by accused was not proven and he was acquitted by the court, the court judgment still restricted his right, namely the payment which he had made as a bail was transferred to the state budget. It is determined from the material presented on the case that prior to the Court Judgment, the restrictive measure - bail imposed on the individual was changed with detention and by acquittal judgment the bail payment was transferred to the state budget.

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17. The acquittal judgment delivered on the case indicated that legal basis for transfer of bail payment to the state budget was section 7 of article 168 of the Criminal Procedure Code of Georgia (adopted on 1998). According to this provision if an accused or a convicted, against whom restrictive measure - bail is used, without a proper reason avoided appearance before investigator, prosecutor or the court, committed new crime, threatened participant of the criminal proceeding or/and caused danger for preservation of evidences the bail will be changed with more severe restrictive measure by the court ruling enacted as a result of the motion of a prosecutor. With the same court ruling payment made as a bail shall be transferred to the state budget. Based on this provision the court determined that bail payment deposited by the individual shall be transferred to the state budget. Lawfulness of the court judgment adjudicating on the criminal case is not subject of assessment of the Constitutional Court of Georgia, in the present case neither is the constitutionality of the provisions the court used while delivering the judgment, but mentioned case proves, that even an acquittal judgment delivered on criminal proceeding might cause restriction of right and legal interest of acquitted person.

18. Equipment of a person with the guarantees implied in the right to a fair trial aims at providing him/her with adequate, efficient and sufficient procedural mechanism for protecting his/her right. No procedural mechanism can be considered as an aim itself. Any guarantee serves to elimination of risks of breaching a right and restoration of person in his rights. Therefore, neither is the appeal of court judgment an aim itself. It serves to an adequate protection of rights and legal interest of individual via appealing to the higher instance court. At the same time, appealing is not the sole and unchangeable instrument for protection of a right. In cases when law establishes alternative judicial mechanisms for protection of a right, which adequately and fully protects rights and legal interest of an individual, the restriction of right to appeal the court judgment might not even be considered as interference within the right to a fair trial.

19. According to the written opinion presented by the Respondent, the Parliament of Georgia, there are alternative mechanisms for protection of rights of an acquitted person and he/she can restore his/her breached rights without appealing the Judgment of the court. Specifically, acquitted person can restore his/her breached right as a result of rehabilitation and reparation of damages caused by illegal actions of entities of criminal proceeding, mechanisms established by the Criminal Procedure Code of February 20, 1998. The Respondent considers that acquitted person, whose rights were restricted by the acquittal judgment, can request reparation of material and nonmaterial damages caused by the Judgment according to the rules established by the Criminal Procedure Code.

20. The author of the Constitutional Submission did not agree with the opinion of the Parliament of Georgia and stated that mentioned approach is not derived from provisions of the Criminal Procedure Code and is false. The fact that individual was acquitted from the criminal charge does not mean that any

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procedural action implemented against him/her is unlawful and legal grounds established under the Criminal Procedural Code for rehabilitation and reparation of damages exist.

21. The Constitutional Court of Georgia upholds the definition presented by the author of the Constitutional Submission, the Supreme Court of Georgia. According to the article 221 of the Criminal Procedure Code, notwithstanding the result of the case, the damage sustained by the person as a result of unlawful or unreasoned arrest, detention or placement in medical institution for expertise, as well as by dismissal from the office (workplace), search, seizure, asset freezing, investigatory expertise, frisk, other unlawful or unreasoned act of law enforcing agencies which might cause material, physical or moral damage to accused or other person shall be restored. The legal ground for arising the right on reparation of damage is the unlawful or unreasoned act which caused it. The author of the Constitutional Submission rightfully indicated that delivering acquittal judgment by the court does not by itself imply that every legal act adopted and action taken before delivery of the judgment is unlawful. The legal prerequisite for rehabilitation and reparation of damages, mechanisms established under articles 219-229 of the Criminal Procedure Code, is declaration of relevant measure or act unlawful. Therefore, in this cases possibility to use rehabilitation mechanism does not exist. There is no mechanism established by the law which makes declaring acquittal court judgment unlawful and request reparation of damages without appealing the judgment possible. Assessment of relevant provisions of the Criminal Procedure Code makes it clear that, individual might not manage protection of his/her right via the mechanisms indicated by the Respondent and he/she will not be able to restore his/her breached right and legal interest without appealing the acquittal judgment. The rehabilitation and reparation of damages established by the Criminal Procedure Code cannot be considered as a mechanism fully replacing the appeal of the acquittal judgment.

22. The analysis of the law makes it clear that restriction established by the disputed provisions forbids individuals from appealing court judgment to the Court of Appeal and the Court of Cassation. Moreover, the case described by the Constitutional Submission illustrates that acquittal judgment might restrict rights and legal interests of the acquitted person and an alternative mechanism for protection of the restricted rights might not exist. Therefore the regulation established by the disputed provisions, restricting appeal of court judgment to the Court of Appeals and the Court of Cassation, constitutes an interference within the right to a fair trial protected by paragraph 1 of article 42 of the Constitution of Georgia.

23. According to the precedents of the Constitutional Court of Georgia although the right to a fair trial has crucial importance for existence of democracy and state based on the Rule of Law, the right established by paragraph 1 of article 42 of the Constitution of Georgia is not an absolute one. The right might be restricted in the interest of legitimate aims necessary for the democratic

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society. Furthermore the legislator should ensure reasonable balance between private and public interests while restriction of the right to a fair trial (Judgment N2/6/264 of the Constitutional Court of Georgia, on the case of “Constitutional Claim of LLC “Uniservice” v. the Parliament of Georgia” dated December 21, 2004; Judgment N2/3/286 of the Constitutional Court of Georgia, on the case of “Citizen Oleg Svintradze v. the Parliament of Georgia” dated March 17, 2005; Judgment N2/2/558 of the Constitutional Court of Georgia, on the case of “Citizen of Georgia Ilia Chanturalia v. the Parliament of Georgia “, dated February 27, 2014). Similarly, the right to appeal the court judgment is not absolute and it might be restricted for achieving legitimate aims by employing means proportionate to the aims.

24. The position of the Parliament in relation to the disputed provision is limited only to referring to the rehabilitation and reparation of damage mechanism established by the Criminal Procedure Code of Georgia. The written statement of the Parliament does not explain which legitimate aims are intended to be achieved by restricting the right of acquitted person to appeal the court judgment.

25. The legitimate aim of the disputed provision might be protection of the judicial system from the load caused by manifestly ungrounded initiations of legal proceedings. Naturally, the judiciary should not be overloaded by the appeals from the individual who has no legal interest toward the dispute.

26. According to the position of the Constitutional Court “procedural efficiency and avoidance of artificial backlog of courts is vital for ensuring quality of justice. Therefore, the right to fair trial may be restricted in the interest of above-mentioned legitimate aims. However, for the assessment of the proportionality of intervention, we should take into account its intensity as well as the significance of the right and legal interest possibility of protection of which is being limited” (Judgment N3/2/574 of the Constitutional Court of Georgia, on the case of “Citizen of Georgia Giorgi Ugulava v. the Parliament of Georgia”, dated May 23, 2014, II-69). As it has already been indicated the provision restricting the right to a fair trial should not only serve achievement of the legitimate aim, but also its restrictive effect should be proportionate to the protected interest.

27. In the present case it has already been established that acquitted individuals might have legal interest to appeal acquittal judgment. As it has already been indicated comprehensive realisation of the right to appeal has crucial importance for acquitted persons, in cases when their rights and legal interests are restricted by the judgment. Without exercising the right to appeal court judgment, there is high risk that individuals will be left without mechanism for protection of their rights, which endangers not only the right to a fair trial, but also wide spectrum of the rights and freedoms for protection of which individual applies to the court and restriction of which might be caused by an acquittal judgment.

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28. Therefore, forbidding the possibility to appeal an acquittal judgment, in cases when the right and legal interest of individual is restricted by it, constitutes intensive interference within the right to a fair trial, hinders complete realisation of this right and effective protection of rights and freedoms. Therefore in this case procedural economy solely cannot be adequate countervailing interest for restriction of this right. “Protection of the legitimate aims of fast and effective adjudication is illogical if its outcome is impossibility of full enjoyment of the right to fair trial” (Judgment N3/2/574 of the Constitutional Court of Georgia, on the case of “Citizen of Georgia Giorgi Ugulava v. the Parliament of Georgia”, dated May 23, 2014, II-90).

29. Based on all above mentioned, the restriction of the right established by the disputed provision is disproportionate and article 546 and the first section of article 518 of the Criminal Procedure Code of Georgia (adopted on February 20, 1998) shall be declared unconstitutional with respect to the paragraph 1 of article 42 of the Constitution of Georgia.

### **III**

#### **Ruling Part**

Based on subparagraph “f” of the paragraph 1 and paragraph 2 of article 89 of the Constitution of Georgia, paragraph 2 of article 19, paragraph 2 of article 21, paragraph 1 of article 23, paragraphs 1, 2 and 3 of article 25, paragraph 5 of article 27, paragraphs 2, 4, 7 and 8 of article 43, paragraphs 1 and 2 of article 44 of the organic law of Georgia “On The Constitutional Court of Georgia”, paragraph 2 of article 24, articles 30, 31, 32 and 33 of the Law of Georgia “On Constitutional Legal Proceeding”

#### **THE CONSTITUTIONAL COURT OF GEORGIA**

##### **RULES:**

1. Normative part of article 546 of the Criminal Procedure Code of Georgia (adopted on February 20, 1998) which restricts the possibility of the acquitted person to appeal the court judgment to the court of appeals and normative part of the first section of article 518 of the same code which restricts the possibility of the acquitted person to appeal the court judgment to the court of cassation as indicated by the Supreme Court of Georgia in N601 Constitutional Submission shall be declared unconstitutional with respect to the first paragraph of article 42 of the Constitution of Georgia.

2. Unconstitutional provisions shall be declared invalid from the moment of public announcement of this judgment.

3. The present judgment shall be in force from the moment of its public announcement at the hearing of the Constitutional Court.

4. The present judgment is final and shall not be subject to appeal or review.

5. Copies of the present judgment shall be sent to the parties, the President of Georgia, the Government of Georgia and the Supreme Court of Georgia.

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6. The present judgment shall be published in “Legislative Herald of Georgia” within 15 days.

***Members of the Plenum:***

Giorgi Papuashvili  
Konstantine Vardzelashvili  
Ketevan Eremadze  
Maia Kopaleishvili  
Zaza Tavadze  
Otar Sichinava  
Lali Papiashvili  
Tamaz Tsabutashvili