

## FOREWORD



A consistent and gradual increase in legal awareness is a prerequisite for strengthening constitutional and legal democracy. Critical understanding of current legal processes, case law, and legal reforms facilitates the search for findings based on rational reasoning, and thus, informed decision-making. An accessible academic platform, open to both young researchers and acclaimed scholars, ensures legal cognizance by encouraging discussion

around various areas of the legal profession, which in turn equips interested subjects to make valuable contributions to the development of current legal processes.

“Journal of Constitutional Law” is an internationally-refereed, authoritative academic publication that provides Georgian scholars, legal practitioners, and young researchers with the opportunity to present their work to the wider public and establish a place in the field of research. At the same time, the publication is a valuable source for students and legal professionals to obtain information and deepen their knowledge on current, topical legal issues.

The present issue of the “Journal of Constitutional Law” brings together six academic pieces by Georgian and foreign authors. In particular, the journal contains an academic article by Prof. Claus Kreß on the topic of the prohibition of the use of force in international law on the example of the ongoing war in Ukraine. The author, through a doctrinal analysis, discusses the issue of the prohibition of the use of force from the point of view of the law of international armed conflict and international criminal law. The foregoing subject gains huge relevance, in particular, for Georgia and for the wider region against the backdrop of ongoing global armed conflicts.

The “Journal of Constitutional Law” also combines five academic works by Georgian authors. In particular, the journal brings together pieces by Georgian researchers on the following interesting legal issues: the possibility of improving the Georgian model of respect for the Constitutional Court’s judgements (authored by Mr. Giorgi Khazalia and Ms. Nino Chochia), the permissible scope of provocation of crime during covert investigative actions and operative-search measures (authored by Mr. Gia Markoidze), the separation of powers in the case law of the Constitutional Court (authored by Professor Malkhaz Begiashvili), indirect evidence as a constitutional-legal basis for issuing a guilty verdict (authored by Ms. Mariam Chikadze and Mr. Irakli Jojua), aspects of the legal regulation of local self-governments in the international system (authored by Assistant Professor Nino Rukhadze).

In addition, this publication provides an overview of four landmark judgments of the Constitutional Court of Georgia in 2023. In particular, the journal gives the overview of the following judgments: №1/5/1355,1389 of July 27, 2023 (“Samson Tamariani, Malkhaz Machalikashvili and Merab Mikeladze vs. the Parliament of Georgia”), №1/3/1591,1605 of June 1, 2023 (“Merab Muradashvili and the Public Defender of Georgia vs. the Parliament of Georgia and the Minister of Internal Affairs of Georgia”), №2/3/1421,1448,1451 of April 11, 2023 (“Ikhtios LLC”, Zaza Pataridze, Nikoloz Beriashvili, Shalva Oniani, Vakhtang Kobeshavidze and Manana Kharkheli vs. the Parliament of Georgia”) and №2/7/1528 of November 10, 2023 (“Ekaterine Pipia vs. the Parliament of Georgia and the Minister of Education and Science of Georgia”).

In the case №1/5/1355,1389 (“Samson Tamariani, Malkhaz Machalikashvili and Merab Mikeladze vs. Parliament of Georgia”) of July 27, 2023, the Constitutional Court assessed the norms of the Criminal Procedure Code, which established the right of the victim to appeal only once to a superior prosecutor the prosecutor’s reasoned decision to refuse to satisfy the request for information on the progress of the investigation, initiation and/or termination of criminal prosecution. In its judgement №1/3/1591,1605 of June 1, 2023 (“Merab Muradashvili and the Public Defender of Georgia vs. the Parliament of Georgia and the Minister of Internal Affairs of Georgia”), the Constitutional Court assessed, in relation to the constitutional right to equality, on the one hand, the constitutionality of the norms regulating the age limit for firefighter-rescuer positions (55 years) and the grounds for dismissal from the position upon reaching the specified age limit, and, on the other hand, the age limit for employees of the Main Department of External Security of the Penitentiary Department (60 years).

In its judgement №2/3/1421,1448,1451 of April 11, 2023, the Constitutional Court considered the constitutionality of the rules established by the norms of the Code of Civil Procedure, according to which, a decision made by a court of first instance in disputes arising from a contract would be subject to immediate enforcement if this was expressly provided for by the contract. At the same time, in the aforementioned case, the plaintiff’s request to ensure the reversal of the enforcement of the decision was excluded. In the №2/7/1528 of November 10, 2023 (“Ekaterine Pipia vs. Parliament of Georgia and Minister of Education and Science of Georgia”), the subject of the dispute was the regulation on the basis of which the National Centre for the Development of Educational Quality did not recognise higher education obtained abroad in a fully remote form, except in cases where the remote format of education was due to the purpose of preventing the spread of the pandemic or combating its consequences.

I reckon this edition of the “Journal of Constitutional Law” will contribute to raising legal awareness and conducting research-based discussions among professional circles and the general public.

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President of the Constitutional Court of Georgia