

## FOREWORD



As legal processes develop dynamically, there is a need for its in-depth discernment, academic analysis, which, in turn, contributes to the realisation of the goals of law and helps to increase its effectiveness. Comprehension of the findings based on any research methodology, data and public perceptions, rational analysis of legislative regulation and judicial practice leads to an

irreversible increase in legal awareness. This, in turn, helps policymakers, decision-makers or bodies to choose substantiated, reasonably sensible and result-oriented solutions.

The “Journal of Constitutional Law” is an accessible academic platform open to both young researchers and acclaimed scholars. It is an internationally-refereed publication that provides legal practitioners and researchers with the opportunity to present their work to the wider public and establish a place in the field of research. In addition, the publication is a valuable source for students and legal professionals to obtain information and deepen their knowledge on current, topical legal issues.

This present issue of the “Journal of Constitutional Law” brings together five academic pieces by Georgian authors. In particular, the journal combines work by Georgian researchers on the following interesting legal issues: constitutional analysis of the legal phenomenon of migration from the perspective of a “third country”, namely, in the legal context of those states in which an asylum seeker temporarily remains until the determination is made whether to grant an asylum in the country of destination (authored by Professor Anna Phirtskhalashvili), the consideration of the provision of criminal procedural legislation on establishing a guilty verdict (Part 5 of Article 269 of the Criminal Procedure Code of Georgia), according to which the court is authorised, if appropriate conditions exist, to pronounce a guilty verdict against a person, assign a sentence and subsequently discharge him/her from serving it (authored by Associate Professor Lavrenti Maghlakelidze), the scope of a lawyer’s freedom of expression (authored by Jamlat Gvidiani), discussion of the jurisprudence of the European Convention on Human Rights in relation to the prohibition of human trafficking (authored by Associate Professor Marina Meskhi), analysis of the procedural status of the accused and the witness in light of the judgement of the Plenum of the Constitutional Court of 28 December 2021 (authored by Maia Akhvlediani).

In addition, this publication provides a review of three landmark judgements issued by the Constitutional Court of Georgia in 2023 and 2024. In particular, the journal presents a review of the judgements of the Constitutional Court of 22 November 2023, No. 2/8/1444 (“Nikoloz Akopov vs. the Parliament of Georgia”), 14 December 2023, No. 3/3/1635 (“Public Defender of Georgia vs. the Parliament of Georgia”), and 12 July 2024 (“Constitutional submission of the Telavi District Court on the constitutionality of Part 3 of Article 34 of the Criminal Code of Georgia and Part 3 of Article 191 of the Criminal Procedure Code of Georgia”).

In its judgements No. 2/8/1444 (“Nikoloz Akopov v. Parliament of Georgia”) of 22 November 2023, the Constitutional Court considered the constitutionality of the regulation established by the Imprisonment Code, which granted the investigator/prosecutor the authority to restrict the rights of a defendant placed in a detention facility to brief visits, correspondence, and telephone conversations. In its judgement No. 3/3/1635 (“Public Defender of Georgia v. Parliament of Georgia”) of 14 December 2023, the Constitutional Court assessed the constitutionality of the provision of the Law of Georgia “On Assemblies and Manifestations” that established the obligation to submit a notice to the executive body of the municipality regarding the organisation and holding of an assembly or manifestation no later than 5 days before its holding. In its judgement of 12 July 2024 (“Constitutional submission of the Telavi District Court on the constitutionality of Article 34, Part 3 of the Criminal Code of Georgia and Article 191, Part 3 of the Criminal Procedure Code of Georgia”), the Constitutional Court assessed the constitutionality of the norms provided for by the Criminal Code of Georgia, which, on the one hand, established that if a sane person committed a crime, but became mentally ill before the verdict was delivered, he/she shall serve the sentence imposed by the court in an appropriate medical (treatment) institution until he/she recovers; On the other hand, the disputed norms stipulated that the court would pronounce a guilty verdict against a defendant who was sane at the time of committing the crime and then became insane, and the convicted person would serve his/her sentence in an appropriate medical (treatment) institution until he/she recovered, and in case of recovery, the sentence would continue to be served according to the general rules.

I hope that this edition of the “Journal of Constitutional Law” will help representatives of the legal profession to deepen their knowledge of current, topical legal issues.

**Professor Merab Turava**

President of the Constitutional Court of Georgia