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REFINING GEORGIA’S LEGAL FRAMEWORK FOR ENFORCING CONSTITUTIONAL COURT JUDGEMENTS

ABSTRACT

A judgment adopted by the constitutional court reveals its true *res judicata* nature and binding force through enforcement. Certain court judgments are self-executing, while others require an active involvement of various branches of government to ensure their enforcement. The practice of the Constitutional Court of Georgia shows that some judgments were not enforced at all, were enforced with delay, or only partially. For the effective execution of judgments, it is essential to have a necessary component of trust between state institutions but also to ensure the existence of all appropriate mechanisms for their enforcement. The applicable Georgian legislation primarily focuses on the mechanisms for restoring individual rights in response to the Constitutional Court judgments, while broader measures such as the adoption of new legislation are relegated to the political process. This article will assess the effectiveness of the Georgian legal framework of enforcing the Constitutional Court judgements, analyze the best international practices and provide recommendations for elaboration of the instruments that will promote their effective enforcement.

I. INTRODUCTION

The significance of the constitutional court and its role in strengthening the constitutional legal order depends not only on the substantive aspects of the court’s judgements but also on the extent to which the standards established by them are transformed into living law, and the will expressed by these judgments is implemented in practice. For the constitutional court to effectively fulfill its constitutional oversight function granted by the constitution and to contribute to strengthening of the constitutional order and legality in the country, it is impermissible to allow existence of either factual or legal possibilities for overruling or disregard of the court judgment and its outcomes.

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Adequate mechanisms at both legislative and operational levels are essential to ensure the enforcement of judgments, thereby establishing the necessary foundations for the effective articulation and application of the constitutional standards embodied in these judicial acts.

This article aims to analyze the effectiveness of the legislative mechanisms and practices related to the enforcement of the judgments made by the Constitutional Court of Georgia, identify problematic issues and search for the best solutions to address the gaps. To achieve this goal, the article examines the mechanisms that promote enforcement of the judgements reached by the European Court of Human Rights, and studies judicial practices of the constitutional courts of foreign countries.

The second chapter of the article is focused on the Georgia's legal framework of enforcement of the Constitutional Court's judgements; the third chapter studies the international judicial practice and those of selected foreign countries, while the fourth chapter provides recommendations for improving the Georgia's legal framework of enforcing Court judgments.

II. GEORGIA'S LEGAL FRAMEWORK OF ENFORCING THE CONSTITUTIONAL COURT'S JUDGEMENTS AND EXISTING CHALLENGES

The judicial acts of the Constitutional Court of Georgia include the judgment, ruling, recording note and conclusion.¹ These acts are final and shall not be subject to appeal or revision.² The non-enforcement of a Constitutional Court judgment is punishable by law.³ Under the term "judgement" referred to by the law, all types of acts should be understood as the Constitution of Georgia does not differentiate between types of judicial acts, collectively referring to them under the single term "court judgment."⁴ Hence, the Organic Law of Georgia on the Constitutional Law of Georgia indicates a *res judicata* nature of all types of acts adopted by the court.⁵ Like a judgment, a conclusion, recording note, or ruling carries decisive authority on matters of greater

¹ Article 43, paragraph 1, Organic Law of Georgia on the Constitutional Court of Georgia. 31 January 1996. Official Gazette of the Parliament of Georgia, 001, 27.02.1996.

² Article 60, paragraph 5, the Constitution of Georgia. 24 August 1995. Official Gazette of the Parliament of Georgia, 31-33, 24.08.1995; Article 43, paragraph 8, Organic Law of Georgia on the Constitutional Court of Georgia. 31 January 1996, Official Gazette of the Parliament of Georgia, 001, 27.02.1996.

³ Article 25, paragraph 1, Organic Law of Georgia on the Constitutional Court of Georgia. 31 January 1996. Official Gazette of the Parliament of Georgia, 001, 27.02.1996.

⁴ Article 60, paragraph 5, the Constitution of Georgia. 24 August 1995. Official Gazette of the Parliament of Georgia, 31-33, 24.08.1995.

⁵ Article 43, paragraph 8, Organic Law of Georgia on the Constitutional Court of Georgia. 31 January 1996. Official Gazette of the Parliament of Georgia, 001, 27.02.1996.

significance (such as recognizing an overriding norm as unconstitutional, suspension of a norm, etc.). Respectively, eliminating the legal liability for the non-enforcement of these judicial acts is unreasonable and generally, contradicts the idea of imposing responsibility for noncompliance with court judgements.

Article 381 of the Criminal Code of Georgia classifies the non-enforcement of the court verdict or other judgment, or obstruction of its execution, as a crime. At the same time, provided that the responsibility for enforcing the Constitutional Court judgements is shared by state agencies and their representatives, a reference should be made to the criminal law provision, prohibiting abuse of official authority.⁶ The delineation of the scope of application of these articles is a subject for separate discussion. However, referencing them serves to demonstrate that the Criminal Code provides the means to sanction specific instances of noncompliance with the Constitutional Court's judgments. It is important to assess the possibility of imposing legal responsibility in each individual case. For example, reluctance to adopt a new normative regulation by an authorized body due to certain legal nuances (such as in the case of a panel) or due to a political nature of the process may give rise to political accountability only. However, a legal responsibility may apply to an individual who, while working on the specific case, disregards a Constitutional Court record on suspending the legal effect of the norm, and continues to apply the suspended norm in legal proceedings.

According to the Georgian Constitution, "An act or a part thereof that has been recognized as unconstitutional shall cease to have legal effect as soon as the respective judgment of the Constitutional Court is made public, unless the relevant judgment envisages a later time frame for invalidating the act or a part thereof."⁷

The loss of the legal effect of the unconstitutional norm results in two main outcomes: a) restoration of individual rights⁸, and b) creation of a new normative order as a general measure to prevent future violations of rights. The following discussion in this chapter, considering existing challenges, will focus on the latter issue.

As a rule, the obligation to create a new normative order falls on the subject, which was presented as a defendant in the legal proceedings. At the same time, as mentioned above, the Constitutional Court may deviate from the general rule of invalidating the legal act (or its part) upon recognizing it unconstitutional, and set a later timeframe for it. This means that the body responsible for implementing the judgement must amend the legislative framework in accordance with the standards outlined in the judgment before

⁶ Article 333, Criminal Code of Georgia. 22 July 1999. Official Gazette, 41 (48), 13.08.1999.

⁷ Article 60, paragraph 5, the Constitution of Georgia 24 August 1995. Official Gazette of the Parliament of Georgia, 31-33, 24.08.1995.

⁸ The restoration of individual rights means suspending the enforcement of Court's verdicts/judgments made previously based on unconstitutional regulation, and in cases prescribed by procedural legislation, their revision. It is noteworthy that the discussions are more focused on expanding the revision framework rather than addressing the challenges related to enforcing the existing mechanism.

the expiration of the period specified therein. After the set deadline, the unconstitutional norm becomes void. The Constitutional Court mostly uses this mechanism in case when recognizing the norm as void from the moment of the publication of the Court judgement could pose a risk of causing harm to significant public interest. In practice, the Court does not define other issues related to the enforcement of judgment.

The practice of enforcing the Constitutional Court judgments (both its reasoning and resolute parts) varies in accordance with the modification of the legislative normative base. Some judgments do not require legislative amendments for their enforcement. More specifically, the Constitutional Court, based on its practice, introduced the method of recognizing the normative content of a provision as unconstitutional.⁹ As a result, the entire norm is not declared unconstitutional; rather, only one of its interpretations is. The information regarding the unconstitutional normative content is immediately published on the website of the Legislative Herald of Georgia (Georgia's official gazette) and is visible to judges and legal practitioners. This method facilitates the enforcement of the Court judgments as it eliminates the need for legislative intervention by the relevant authority. The Constitutional Court notes that based on the analysis of recent practice, judges of the general courts do not apply provisions and normative content that have been declared unconstitutional by the Constitutional Court.¹⁰ However, there are alternative cases, which will be discussed below.

Additionally, there are instances where the Court judgements have not been enforced according to the standards established in its reasoning part. The Judgement N2/1/536 can be brought as an example,¹¹ involving restriction/prohibition on the blood donation right for men who have sex with men (MSM). Following this judgement, the executive minister amended the regulations on donation rights of MSM twice, but the new norms did not comply with the standards set by the Judgment N2/1/536. Consequently, the Court recognized the adopted norms as overriding the Constitutional Court's judgment twice, and recognized them as unconstitutional.¹²

⁹ Judgement of the Constitutional Court of Georgia on case N1/1/477 "The Public Defender of Georgia v. The Parliament of Georgia", 22 December 2011.

¹⁰ The Constitutional Court of Georgia, Information on Constitutional Legality in Georgia (2019) 98 <https://constcourt.ge/files/4/2019_Report.pdf> (in Georgian) [last accessed on 08 May 2023].

¹¹ Judgement of the Constitutional Court of Georgia on case N2/1/536 "Citizens of Georgia Levan Asatiani, Irakli Vacharadze, Levan Berianidze, Beka Buchashvili and Gocha Gabodze v. the Minister of Labour, Health and Social Affairs of Georgia", 4 February 2014.

¹² Ruling of the Constitutional Court of Georgia N1/13/878 "Citizens of Georgia Gocha Gabodze and Levan Berianidze v. The Minister of Labour, Health and Social Affairs of Georgia", 13 July 2017; Ruling of the Constitutional Court of Georgia N2/16/1346 "Gocha Gabodze and Levan Berianidze v. Minister of Labour, Health and Social Affairs of Georgia", 17 December 2019.

It is evident that there are judgments that have been enforced within the timeframe established by the Court.¹³ However, contrasting examples are also striking.¹⁴ Moreover, there are the cases, where the deadline set by the Court expired without legislative amendments being adopted, yet the executive authority did not violate its enforcement obligations. These include the cases when the Court applies the instrument of delaying the enforcement of a decision to eliminate inequalities created by a discriminatory law. In these instances, the rationale for postponement lies not in an avoidance of violations of rights due to a legal vacuum but it rather is a reflection of the nature of the Constitutional Court as “negative legislator”.¹⁵ In such cases, the executive authority accepts the legal status quo resulting from the invalidation of the unconstitutional norm, and this state of affairs does not contradict the Constitution. Furthermore, there also are the Court judgments requiring systemic reforms to be taken by the parliament, with no tangible action taken by the latter in response.¹⁶

In terms of enforcement, the Judgment N1/4/693,857 (2019) related to the publication of the full texts of the Court’s legal acts issued following open court hearings presented challenges.¹⁷ The Court granted the Parliament a deadline until May 1, 2020 to adopt the legislative amendments. However, the legislative body adopted those only in June 2023.¹⁸

The Constitutional Court Judgement N1/8/926 (2022) represents a currently unenforced case. In this judgment, the Court declared the action stipulated by Article 255, paragraph 1 of the Criminal Code of Georgia - “Illegal production, dissemination or advertisement of pornographic material, printed publications, images or similar items, as well as sale or storage of these items for marketing or dissemination purposes”, as unconstitutional, due to the substantive vagueness¹⁹. As a next step, the Court granted the Parliament a deadline until May 1, 2023 to adopt relevant legislative amendments. The Parliament failed to introduce amendments, as a result of which the norm declared unconstitutional lost its legal effect.

¹³ The Constitutional Court of Georgia, *supra* note 10, 97.

¹⁴ *ibid.*, 94-97.

¹⁵ Judgment of the Constitutional Court of Georgia on case N1/2/671 “LEPL Evangelical-Baptist Church of Georgia, NNLE Word of Life Church of Georgia, LEPL Church of Christ, LEPL Pentecostal Church of Georgia, NNLE Trans-Caucasus Union of the Seventh-Day Christian-Adventist Church, LEPL Caucasus Apostolic Administration of Latin Rite Catholics, NNLE Georgian Muslims Union and LEPL Holy Trinity Church v. the Parliament of Georgia”, 3 July 2018. Paragraphs II-41-44.

¹⁶ Constitutional Court of Georgia, *supra* note 10, 90.

¹⁷ Judgement of the Constitutional Court of Georgia on case N1/4/693,857 “NNLE Media Development Foundation (MDF) and NNLE Institute for Development of Freedom of Information (IDFI) v. The Parliament of Georgia”, 7 June 2019.

¹⁸ Organic Law of Georgia on Amendments to the Organic Law of Georgia on General Courts. 13 June 2023, N3129-Xlms-Xmp.

¹⁹ Judgement of the Constitutional Court of Georgia on case N1/8/926 “Giorgi Logua v. the Parliament of Georgia”, 4 November 2022. Paragraphs II-50.

Consequently, at this stage, there is a legal vacuum concerning the criminalization of activities related to adult pornography (production, distribution, advertisement, sale, or storage for sale or distribution).

The negative consequences should be mentioned here as well resulting from the failure to implement legislative changes within the timeframe established by the court, and consequently, by leaving the legal relationships unregulated. The case identified by the Constitutional Court itself is a clear illustration of this: the Court determined that in the absence of new legislation, the Supreme Court of Georgia applied a provision that had already been declared invalidated during legal proceedings.²⁰

In the enforcement process, practice has highlighted a challenge involving cases where the designated authority implemented the necessary legislative amendments before the timeframe defined by the court; however, these legislative changes came into force not immediately upon publication but from the period when the court declared the provision unconstitutional. In such circumstances, there remains a period during which the unconstitutional provision continues to operate, even though the legislative changes compliant with the constitution have already been adopted, and the legislator in fact does not require additional time.

An example of such practice is the measures aimed at enforcing the Constitutional Court judgement N2/4/1412.²¹ In this case, the Court postponed the invalidation of the disputed provision until June 1, 2021. The Parliament adopted the legislative changes necessary for enforcement on April 29, 2021, but defined the date for enacting the changes on June 1, 2021; hence, the unconstitutional provision remained in effect for more than a month without any objective grounds.²² Notably, the deadline set by the Constitutional Court is referenced as the argument for determining the effective date of the legislative changes.²³ A legislator is not bound by the timeframe defined by the Constitutional Court in such a way to prohibit the enactment of a norm already adopted prior to the expiration of the period established by the court. Therefore, the reasoning behind the Parliament aligning the effective date of the new provision with the court's deadline remains unclear.

At the same time, in some cases, the alignment of the enactment of a new provision with the timeframe defined by the Constitutional Court has a justified rationale. For example, in the Judgment N1/6/1320 of the Constitutional Court the invalidation of

²⁰ Constitutional Court of Georgia, *supra* note 10, 100.

²¹ Judgement of the Constitutional Court of Georgia on case N2/4/1412 "Irakli Jugheli v. the Parliament of Georgia", 29 December 2020.

²² Law of Georgia on Amendments to the Code of Administrative Offenses of Georgia. 29 April 2021, N482-IVms-Xmp.

²³ Explanatory Note to the Draft Law of Georgia on Amendments to the Code of Administrative Offenses of Georgia, 07-3/44/10, 21.04.2021.

the contested provisions was postponed until July 1, 2022.²⁴ The Parliament adopted the necessary legislative amendments on June 9, 2022; however, Article 1 of the law, which established a constitutional provision, came into effect on July 1, 2022.²⁵ In this case, the rationale for postponing the enactment of the norm was that the issuance of the necessary bylaws by the competent authorities was required to ensure the implementation of new regulation.²⁶

It is essential as well to review the effectiveness of the mechanisms for enforcing court judgements within the existing judicial framework.

According to Article 14, paragraph 2 d of the Organic Law of Georgia on the Constitutional Court of Georgia, the secretary of the Constitutional Court takes measures to enforce the Court judgements and reports to the Plenum on the progress of their enforcement on a monthly basis. Although the law remains silent on the nature of “specific measures”. In practice, the “taking measures” involves a court personnel collecting information on the enforcement of judgement and presenting this information monthly to the Plenum. The court secretary has no other leverage.

According to the recent practice, the Constitutional Court provides the information on the enforcement of its judgments in the annual report on constitutional legality in Georgia. This practice is established by the 2019-2020 reports. In addition, according to information obtained from the Court, its Secretary submitted written reports on the enforcement of judgments made by the Constitutional Court to the Plenum twice - on August 5, 2022 (regarding the judgments reached in 2020-2021), and on January 31, 2024 (regarding the judgments reached in 2023). Apart from this, as Giorgi Tevdorashvili, the Secretary of the Constitutional Court²⁷ stated in the interview, he updates the Plenum on the progress of enforcing the court judgments during each meeting in the working format.

It is noteworthy that the abovementioned written reports mostly describe the progress of enforcing those judgments, where the court employed the mechanism of postponing the invalidation of the contested provision. Consequently, the information on the monitoring of the enforcement of judgments, in which case a said mechanism was not applied (despite the need for legislative amendments), is harder to obtain. The civil society actors also highlight the challenges in enforcing such judgments. Specifically, they point out that the cases in which the Constitutional Court does not postpone enforcement are either enforced within an unreasonable timeframe or not enforced at all.²⁸

²⁴ Judgement of the Constitutional Court of Georgia on case N1/6/1320 “Elga Maisuradze, Irma Ginturi, and Leri Todadze v. the Parliament of Georgia”, 28 December 2021.

²⁵ Law of Georgia on Amendments to the Civil Code of Georgia. 9 June 2022, N1651-VIIIms-Xmp.

²⁶ *ibid*, Article 2.

²⁷ Member of the Constitutional Court of Georgia, the Court’s Secretary from December 1, 2021.

²⁸ Georgian Young Lawyers’ Association, Strategic Litigation of the Georgian Young Lawyers’ Association in the Constitutional Court (2020) 8 (in Georgian).

The effectiveness of the existing enforcement mechanism is questioned by Manana Kobakhidze, a Court Member. Her primary argument is that the Court Members do not have a real mechanism to force the executive authority to adopt new regulations within the established timeframe.²⁹ Moreover, the judge notes that there is no any forum for a dialogue, where the court, enforcement agencies, plaintiffs and civil society actors could jointly discuss challenges that hinder the timely enforcement of the Court judgments.³⁰ It should be noted that there have been fragmented instances of organizing such forums. For instance, the complexity of the aforementioned judgement of the Constitutional Court, regarding the publishing of judicial materials (the judgements) by general courts, as well as the challenges of its enforcement necessitated a dialogue between the Parliament and the Court, in order to initiate necessary legislative amendments.

From the perspective of the agencies responsible for enforcement the Court judgments, the factors hindering this process include: (a) the vagueness of the Constitutional Court judgment or its part, necessitating further interpretation; (b) the failure to reach consensus among political actors, which is particularly relevant in the case of Parliament; (c) the fact that the agencies responsible for enforcing the Court's judgments are usually political bodies means that they constantly reflect on political events, resulting in their activities being consistently politically charged. This political engagement reduces the time available for carrying out the necessary work to enforce the Court judgment; (d) in some cases, considering the complexity of the case, the timeframe set by the Constitutional Court is insufficient.³¹

²⁹ Manana Kobakhidze, a member of the Constitutional Court, and the Court's secretary in 2018-2021, notes: "The relevant provision [Article 14 (2d)] may well exist in the law... but the question is, how effective is it? What actual leverage does the Court's Secretary, who is an ordinary member of the Court, have? We understand that the law obliges him/her to collect information and find out whether the changes have been made, what is the progress, whether the Parliament or any other body violated the deadline, and report this to the Plenum; but beyond that, to put it bluntly, there are no any enforcement mechanisms whatsoever. What can the Court Secretary do to push the Parliament or a minister [...] to adopt the necessary changes?" From an online discussion held by the Georgian Young Lawyers' Association in 2020, "The Practice and Challenges of Enforcing Constitutional Court Judgments/Rulings" <<https://he-il.facebook.com/GYLA.ge/videos/2473752172922496/>> [last accessed on 08 May 2023].

³⁰ Manana Kobakhidze, a member of the Constitutional Court, and the Court's secretary in 2018-2021. An online discussion held by the Georgian Young Lawyers' Association in 2020, "The Practice and Challenges of Enforcing Constitutional Court Judgments/Rulings" <<https://he-il.facebook.com/GYLA.ge/videos/2473752172922496/>> [last accessed on 08 May 2023].

³¹ *ibid.* Anri Okhanashvili, Chairman of the Legal Issues Committee of the Parliament of Georgia. See an online discussion held by the Georgian Young Lawyers' Association in 2020, "The Practice and Challenges of Enforcing Constitutional Court Judgments/Rulings" <<https://he-il.facebook.com/GYLA.ge/videos/2473752172922496/>> [last accessed on 08 May 2023].

III. INTERNATIONAL AND OTHER COUNTRIES' PRACTICE IN ENFORCING COURT JUDGMENTS

1. ENFORCEMENT OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS

The authors of the article believe that since the enforcement of a judgment of the Constitutional Court, similar to the enforcement of a judgment of the European Court of Human Rights (ECtHR), particularly in terms of general measures, involves both legal and political aspects, it is relevant to review the regulatory framework and practice governing the enforcement of ECtHR judgments in light of the best international practices.

Articles 39 and 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms (The European Convention on Human Rights/Convention) stipulate that the Court's final judgment/ruling on settlement is submitted to the Committee of Ministers, which oversees its execution. The Committee of Ministers serves as a representative body of the Council of Europe,³² comprising the foreign ministers of the member states or their representatives.³³ The political nature of the activities of the Committee makes it capable of employing political leverage in relation to unenforced cases.³⁴

The Department for the Execution of Judgments, operating under the Directorate General of Human Rights and Rule of Law plays a significant role in the architecture of judgment enforcement.³⁵ The department is mandated to advise and assist the Committee of Ministers in performing its supervisory function over the enforcement of ECtHR judgments as well as to support member states in fully, effectively, and promptly enforcing decisions issued against them.³⁶

The Committee of Ministers receives information from various sources for the purpose of executing judgments - the respondent state, the victim, civil society organizations, national human rights institution, international intergovernmental organizations, and their official bodies.³⁷ Key instruments of dialogue between the Committee of Ministers

³² Article 13, Statute of the Council of Europe, 5.5.1949 <<https://rm.coe.int/1680306052>> [last accessed on 08 May 2023].

³³ *ibid*, Article 14.

³⁴ Szymon Janczarek and Nikita Kolomiets, 'Solid and Effective: Supervision of Execution of Judgments of the European Court of Human Rights by The Committee of Ministers' (2021) *Constitutional Justice in Asia* "Current Problems in Execution of Judgments: Constitutional Justice" 20.

³⁵ Website of the Council of Europe <<https://www.coe.int/en/web/execution/presentation-of-the-department>> [last accessed on 08 May 2023].

³⁶ *ibid*.

³⁷ Rule 9, Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements. 10 May 2006 <https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806dd2a5> [last accessed on 08 May 2023].

and member states during the enforcement process are the action plan and the action report.³⁸ The respondent state is obligated to submit an action plan to the Committee of Ministers no later than six months after the final ruling is rendered. The action plan reflects the measures that the state has to implement to enforce the ECtHR judgment, specifying the timelines for their implementation.³⁹ The action plan is a living document, meaning that it is updated by the state throughout the entire enforcement process.⁴⁰

The measures determined by the state are of two types: individual and general. Individual measures (paying compensation, revision of judgments at the national level, release from detention, etc.) are aimed at restoring the rights of the victim, while general measures (amending legislation, changing judicial practices, etc.) serve to prevent similar violations of rights in the future.⁴¹

The action report is a document submitted by the state describing measures taken to enforce the court judgment. The final update of the action plan becomes an activity report.⁴²

A significant stage in the enforcement process is the Committee of Ministers' meetings dedicated to the execution of judgments (CM-DH meetings).⁴³ The progress of enforcement regarding specific cases is assessed at these meetings, and to facilitate the process, the committee adopts the decisions expressing encouragement, concern, or recommendations regarding enforcement.⁴⁴ Given the heavy workload, the CM-DH meetings' agenda include only selected and important cases requiring special actions (priority cases). For the most problematic cases, debates are held before the committee adopts a decision, while less problematic cases are reviewed without debate.⁴⁵

For the purposes of this article, it is particularly relevant to review the instruments available to the Committee of Ministers and the ECtHR to influence the enforcement process, especially when the respondent state shows little or no willingness to comply with the obligations arising from the court judgment.

To assist states in fulfilling their obligations under Article 46 of the Convention, the ECtHR issues guidelines in respect of certain judgments. These guidelines include

³⁸ Department for the execution of judgments of the European Court of Human Rights, Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights (Series "Vade-mecum" N1, 2015) 1 <<https://www.coe.int/en/web/execution/vademecum>> [last accessed on 08 May 2023].

³⁹ *ibid.*, 3.

⁴⁰ *ibid.*

⁴¹ *ibid.*, 7-8.

⁴² *ibid.*, 3.

⁴³ The Committee of Ministers' Human Rights meetings. "DH" is a French acronym for "Droit de l'Homme" (Human Rights).

⁴⁴ Szymon Janczarek and Nikita Kolomiets, *supra* note 27, 35.

⁴⁵ *ibid.*, 35-36.

defining the individual or general measures that the state must implement to rectify the identified violation,⁴⁶ particularly when the implementation of a specific measure is essential to eliminate the violation.⁴⁷ It is crucial to maintain balance in this process, ensuring that explicit instructions from the court do not undermine the flexibility of the enforcement process led by the Committee of Ministers. At the same time, the principle should be respected, which underlines that selection of the measures for the execution of court judgment (to be carried out under the supervision of the Committee of Ministers) falls within the competence of the state.⁴⁸

The second format for issuing guidelines involves the adoption of pilot judgments by the court. A pilot judgment is rendered when a complaint reveals the existence of a structural or systemic problem, or another form of dysfunction, which has resulted in or may lead to similar complaints.⁴⁹ In the pilot judgment, the court identifies the nature of the structural or systemic problem and specifies the measures that the respondent state must implement to address it. The court may also specify the timeframe to implement the measure.

According to Article 46, paragraph 3 of the Convention, if the Committee of Ministers considers that execution of the final judgment is delayed due to issues related to interpretation of the judgment, it can apply to the Court with the request to provide required interpretation.

Additionally, the Court is empowered to initiate infringement proceedings under Article 46, paragraph 4 of the Convention, as an exceptional mechanism. Specifically, if the Committee of Ministers believes that a contracting party refuses to comply with the court's final judgment, the committee may, after issuing a formal notice to the party, apply to the Court to determine whether the contracting party has violated its obligation to abide by the judgment. The purpose of this procedure is not to reopen the case or penalize the state but to increase political pressure to ensure the enforcement of the court's original judgment.⁵⁰

The instruments in possession of the Committee of Ministers are also noteworthy. Identifying the reason for inaction of the legislator enables the Committee to determine an appropriate response, whether it will be a political instrument, involvement in the programs aimed at fostering cooperation with state (roundtables, seminars, bilateral

⁴⁶ Council of Europe/European Court of Human Rights, Guide on Article 46 of the Convention - Binding force and execution of judgments (2022) 7 <https://www.echr.coe.int/Documents/Guide_Art_46_ENG.pdf> [last accessed on 08 May 2023].

⁴⁷ Judgment of the European Court of Human Rights on case N71503/01 "Assanidze v. Georgia", 8 April 2004. Paragraphs 202-203.

⁴⁸ Council of Europe/European Court of Human Rights, *supra* note 39, 9.

⁴⁹ Article 61, Rules of Court, 20 March 2023 <https://www.echr.coe.int/documents/rules_court_eng.pdf> [last accessed on 08 May 2023].

⁵⁰ Judgment of the European Court of Human Rights N15172/13 "Ilgar Mammadov v. Azerbaijan", 29 May 2019. Paragraphs 59-160.

meetings with the Department for the Execution of Judgments), or assistance with technical difficulties.⁵¹

Through its instruments, the Committee is authorized to:

- Change the mode of overseeing a case from the standard procedure to enhanced supervision;⁵²
- Immediately present a case under enhanced supervision at a CM-DH meeting;
- Adopt decisions criticizing delays in enforcement progress;
- Set deadlines and issue recommendations or other instructions;
- Issue interim resolutions when concerns reach a certain level of seriousness;
- Take additional measures, such as convening a high-level meeting, sending a letter to the respondent state, or raising the issue during a Committee of Ministers' session with ministers in attendance.⁵³

Furthermore, to address ongoing resistance by a state to the enforcement of a court judgment, the Committee of Ministers may:

- Issue a warning if the state disregards its obligations and clear evidence of this inaction exists;
- Invoke the powers provided under Article 46, paragraph 4 of the Convention;
- In cases of established inaction, ensure the issue is placed on the agenda for communication with other bodies of the Council of Europe, and call on member states to take appropriate measures, including diplomatic efforts, to ensure enforcement;
- Publicly declare that the situation warrants assessment under Article 8 of the Statute of the Council of Europe, which provides for the possibility of expelling a state from the Council of Europe.⁵⁴

⁵¹ Szymon Janczarek and Nikita Kolomiets, *supra* note 27, 40.

⁵² As a rule, judgment/ruling is a subject to standard supervision procedure; and in exceptional cases, to the enhanced procedure. Enhanced supervision applies to cases that the committee has prioritized. The distinction between standard and enhanced supervision lies in the Committee of Ministers' active involvement in monitoring enforcement under enhanced supervision, with cases being regularly reviewed during CM-DH meetings. For more information, see Ministers' Deputies, Information Documents CM/Inf/DH (2010) 45 Final, 7 December 2010 <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804a3e07>> [last accessed on 08 May 2023].

⁵³ Szymon Janczarek and Nikita Kolomiets, *supra* note 27, 40.

⁵⁴ *ibid*, 41.

2. ENFORCEMENT OF CONSTITUTIONAL COURT JUDGEMENTS IN THE FEDERAL REPUBLIC OF GERMANY

2.1. GENERAL OVERVIEW

According to Paragraph 35 of the Federal Constitutional Court Act of Germany (Bundesverfassungsgerichtsgesetz), “In its rulings, the Federal Constitutional Court may specify the entity responsible for implementing the decision. The Court may also determine the form and means of enforcement in a particular case.” In one of its judgments, the Federal Constitutional Court explicitly stated that this provision grants the Court, as the guardian and credible interpreter of the Constitution, the power to secure the effective implementation of its judgments. Hence, the Federal Act grants the Court all the powers necessary to enforce its judgments, underscoring the status of the Constitutional Court as the paramount constitutional authority.⁵⁵

According to Paragraph 78 of the Federal Act, if the Federal Constitutional Court concludes that a provision of federal law is incompatible with the basic law (Grundgesetz), or that a provision of the state law is incompatible with the basic law or other federal legal norms, it declares the relevant provision void. If other provisions of the same law are also incompatible with the basic law or other federal legal norms for the same reason, the Federal Constitutional Court may also declare them void.⁵⁶ In its turn, when a provision is declared void, it is assumed that the provision was invalid from the very outset (*ex tunc*).⁵⁷ Such decisions are self-executing and do not require special enforcement measures. Provisions that have been declared void must not be applied in practice, particularly by the courts.⁵⁸

However, in certain cases, the Federal Constitutional Court refrains from declaring a law void and merely establishes its incompatibility with specific provisions of the basic law, in which case the provision continues to have legal effect for a certain period.⁵⁹ In parallel, the competent authority must adopt specific regulations to restore the constitutional order as quickly as possible. This is the reason why the Federal Constitutional Court links a temporary legal effect of an unconstitutional provision with the legislator’s obligation to take measures to restore constitutional order. The legislator, accordingly, is granted a reasonable period within which it must adopt new

⁵⁵ BverfG, Beschluss vom 21.03.1957. 1 BvB 2/51. Paragraphs 8-9.

⁵⁶ Paragraph 78, “Act on the Federal Constitutional Court”, 11 August 1993.

⁵⁷ Christof Lenz und Ronald Hansel, Bundesverfassungsgerichtsgesetz Kommentar (2 Auflage, Nomos 2015) 44.

⁵⁸ Reinhard Gaier, ‘Die Durchsetzung verfassungsgerichtlicher Entscheidungen’ (2011) 11 Juristische Schulung 962.

⁵⁹ Klaus Schleich und Stefan Koriath, Das Bundesverfassungsgericht (10 Auflage, C.H. Beck 2015) 424.

constitutional regulation.⁶⁰ It is noteworthy that the court considers itself authorized to refrain from maintaining an unconstitutional legal situation temporarily, and so it may create a normative framework that will operate during the transitional period.⁶¹

The judgments of the Federal Constitutional Court that declare a legal provision incompatible with the Constitution, can be categorized into two types.⁶² The first category includes the cases where the immediate invalidation of a provision would further burden the constitutional order. The aim of allowing an unconstitutional provision to temporarily remain in force is to avoid creating a legal vacuum⁶³ and a situation of legal uncertainty.⁶⁴ The second category includes the cases where invalidating the contested provision is not “intolerable” from the perspective of the rule of law. However, the court refrains from declaring the provision void, taking into account the legislator’s wide margin of discretion/appreciation to restore the constitutional legal order. By adopting this approach, the court expresses a form of institutional deference towards the legislative body, as the latter has a variety of means to eliminate the unconstitutional situation - in contrast to the Constitutional Court, which by its nature is a “negative legislator.” This scenario is particularly relevant when the court finds a provision that grants the privilege to inequality to be incompatible with the right to equality.⁶⁵

2.2. THE FEDERAL CONSTITUTIONAL COURT’S LEVERAGE IN CASES OF LEGISLATIVE INACTION ON OBLIGATIONS IMPOSED BY THE COURT

The Federal Constitutional Court has various options for responding to the legislator’s inaction on the obligations imposed by the Court.⁶⁶ As stated above, the legal basis for this lies in Paragraph 35 of the Federal Constitutional Court Act, granting the Court the authority to take measures necessary to enforce its judgments.

(A) SPECIFICATION OF RESPECTIVE MEASURES IN THE JUDGMENT TEXT

The Federal Constitutional Court can specify the possible measures that could follow legislative inaction on the imposed obligation in the text of its judgment. For example,

⁶⁰ BVerfG, Beschluß vom 24.06.1992. 1 BvR 459/87, 1 BvR 467/87, 2-3.

⁶¹ BVerfG, Urteil vom 18. 07. 2012. 1 BvL 10/10, 2/11–II, 2.

⁶² Klaus Schleich und Stefan Koriath, *supra*, note 50, 395.

⁶³ BVerfG, Beschluß vom 21.03.1974. 1 BvL 22/71, 21/72–VII, 1-3.

⁶⁴ BVerfG, Urteil vom 14.07.1986. 2 BvE 2/84, 2 BvR 442/84–E, 1-2.

⁶⁵ BVerfG, Beschluß vom 6.07.2010. 2 BvL 13/09-DI, 1-3.

⁶⁶ Hoppe Tilman, ‘Verfassungswidriges Recht: Was folgt aus einem Unterlassen des Gesetzgebers’ (2009) 22 Deutsches Verwaltungsblatt 628.

if the legislator fails to introduce necessary regulations in a timely manner, the court, in order to ensure the enforcement of the judgment, can rule that upon expiring the established deadline, the provision that has been deemed unconstitutional (and which remains in force during the transitional period) will be declared void.⁶⁷

If the legislative body does not implement the required changes within the timeframe specified in the judgment, the Federal Constitutional Court can also identify (in the judgment) a new regulation, compatible with the Constitution that will automatically take effect upon expiring the deadline, without any further action. In such cases, the new regulation will have a self-executing mode. The case-law of the Federal Constitutional Court illustrates this point: The Court ruled twice that public servants with two or more children would be entitled to increased child care benefits. However, the legislator failed to implement this in practice.⁶⁸ In its third judgment, the Court ruled that if the legislator did not take the necessary steps to implement the judgment, the public servants with two or more children would have the right to demand a higher social benefit in the amount indicated in the judgment; and the state agencies responsible for granting these benefits would be obliged to act based on this court judgment. Ultimately, the practical value of the judgment was that the legislator enacted regulation to ensure the provision of increased social benefits.

The other enforcement measure involves the Federal Constitutional Court delegating, in case of legislator's inaction, the practical implementation and operationalization of its judgments to the general courts, instead of establishing (new) regulations, compatible with the Constitution. Specifically, the Constitutional Court instructs general courts (by the judgment) to resolve individual cases based on constitutional norms in case the legislator fails to bring the normative framework in line with the Constitution; meaning that the constitutional norm exerts its derogatory effect on ordinary legislation.⁶⁹

(B) SUBSEQUENT ACTION

Pursuant to Paragraph 35 of the Federal Constitutional Court Act, the Court is empowered to issue an enforcement order following its judgment. This authority is often exercised when enforcement needs arise at a subsequent stage. Through such an order, the Constitutional Court ensures the establishment of the necessary factual prerequisites for the effective implementation of its judgment. However, an enforcement order cannot alter, supplement, or extend the substantive judgment it is intended to enforce.

⁶⁷ BVerfG, Beschluß vom 7.02.2012. 1 BvL 14/07–IV, 1.

⁶⁸ Reinhard Gaier, *supra* note 49, 965.

⁶⁹ BVerfG, Beschluß vom 29.01.1969. 1 BvR 26/66–B–I, 2. A constitutional norm has derogatory power over ordinary law, meaning that issues must be resolved based on the constitutional norm rather than ordinary legislation. In other words, the adjudicating authority must deviate from the statutory provision and act in accordance with the constitutional norm.

2.3. THE LEGAL PROCEDURE FOR ADOPTING AN ENFORCEMENT ORDER

The Federal Constitutional Court explicitly stated in one of its judgments that Paragraph 35 of the Federal Constitutional Court Act clearly reflects the legislator's intent not to establish a specific formal procedure, granting the Court greater flexibility to find the most appropriate, swift, expedient, simple and effective means to ensure the enforcement of its judgment.⁷⁰ This serves a principal task to ensure that procedure enables reaching the state of affairs required by the substantive judgment of the court.

The Federal Constitutional Court issues an enforcement order based on its own initiative and for its purpose it does not require a formal application from the parties involved in the process. Nevertheless, the German constitutional legal doctrine suggests that initiating an enforcement process independently by the Constitutional Court does not *a priori* exclude the right of the parties to apply to the Court to request enforcement.⁷¹

An enforcement order under Paragraph 35 is typically issued without an oral hearing. The Constitutional Court, at its discretion, determines what information to request and from which body to seek clarifications.⁷²

Since enforcement must influence the outcome of a judgment, every enforcement order includes a certain degree of foresight. The Constitutional Court takes the latter into consideration and draws relevant conclusion. The above-mentioned Paragraph 35 empowers the court to carry out enforcement measures on its own or delegate them to other bodies, which include an individual, administrative body or other entity subordinate to the federal authority. At the same time, the legislation does not explicitly require that the body responsible for enforcing the court judgment be vested with official state authority.⁷³

The determination of the entity responsible for enforcement is not entirely within the court's discretion. It is constrained by the nature of the matter and the constitutional principle prohibiting arbitrariness. Additionally, the court may utilize the Federal State Apparatus (Länder) to enforce its judgments. A notable example is the obligation imposed on the Ministers of the Interior of the Federal States to enforce the court's judgment, by deploying police forces, to dissolve the Communist Party of Germany, which had been declared unconstitutional and disbanded by the judgment.⁷⁴

In case the Federal Constitutional Court delegates the enforcement of a judgment to another entity, the following two scenarios of action can be activated:

⁷⁰ BVerfG, Beschluss vom 21.03.1957. 1 BvB 2/51, 8-9.

⁷¹ Christofer Lenz und Ronald Hansel, *supra* note 48, 35 (4).

⁷² BVerfG, Beschluss vom 21.03.1957. 1 BvB 2/51, 8-9.

⁷³ Roman Herzog, Die Vollstreckung von Entscheidungen des BVerfGG (1965) 4 (1) 46.

⁷⁴ BVerfG, Urteil vom 17.08.1956. 1 BvB 2/51-II, 1.

(a) It is possible for the court, in general, to assign the enforcement of a judgment to a specific body without specifying the exact manner of enforcement. In such cases, the executive body, within its own discretion, determines the most effective means of enforcement;

(b) If the Constitutional Court, in addition to designating the entity responsible for enforcement, explicitly specifies the form or means of enforcement of the judgment in the enforcement order, the discretion of the executing body is significantly limited. The body must act strictly within the scope of the court's instructions.

In the first scenario, the designated body acts instead of the Federal Constitutional Court, while in the second scenario, the court acts through the other body, which serves as an "instrument" for enforcement. The criterion for distinguishing these two cases is the general and abstract nature of the enforcement order. Constitutional bodies can be considered as "instruments" only when the court instructs them to use the means proportional to physical coercion. The application of physical force requires exceptional justification and must be a necessary measure to uphold the rule of law in response to unlawful conduct.⁷⁵ In such cases, the decision to authorize the use of physical force is made by the court, while its implementation is carried out by a specialized body. This is why these bodies are regarded as "instruments" for the practical execution of court judgments.

It is important to highlight that legislation does not mandate a specific form for enforcement orders issued by the Federal Constitutional Court to implement its judgments. Furthermore, the possibility of filing a complaint against specific enforcement actions under such an order depends on the entity responsible for enforcement. The following scenarios can be identified in this context:

- (a) If the Federal Constitutional Court itself enforces the judgment (for example, by declaring an unconstitutional provision void after the legislator's inaction once the set deadline expires), no complaint can be filed against it; regardless of whether it is established directly by the same judgment or a subsequent enforcement order;
- (b) When a specific body, delegated by the Federal Constitutional Court, enforces the judgment while acting within its own discretion, a complaint may be filed against that body's actions in the general court and, following the principle of subsidiarity, in the Constitutional Court. This aligns with the right to effective legal protection guaranteed by Article 19, paragraph 4 of the Basic Law;
- (c) If a body acts as the Federal Constitutional Court's "instrument" - meaning that it enforces the Court's judgment strictly within the framework defined by the Constitutional Court, rather than acting at its own discretion – then the enforcement

⁷⁵ Niklas Luhmann, *Die Politik der Gesellschaft* (6 Auflage, Surkhamp Verlag 2000) 55.

action is attributed to the Court, issuing the assignment. Since the Constitutional Court judgments cannot be appealed, the same principle applies in this case as well. Namely, the enforcement actions carried out by delegated bodies cannot be contested. This standard was established by the Federal Constitutional Court as early as in 1953, when based on the enforcement order the Ministry of Internal Affairs of Lower Saxony was entrusted with taking appropriate measures to execute the Court judgment to dissolve political parties - successors to the Reich Socialist Party. Acting within his discretion, the Lower Saxony Interior Minister directed police authorities to prevent the parties (recognized as unconstitutional) from conducting election campaigns and to prohibit any election-related meetings. Since these enforcement measures were not specifically defined by the Constitutional Court, the minister acted within his discretion; therefore, the court judged that any enforcement-related complaint should first be filed in the general court, and then, according to the principle of subsidiarity, to the Federal Constitutional Court.⁷⁶

The analysis of German legislation, practice, and doctrine reveals that a key challenge in enforcing Constitutional Court judgments arises from the complex interplay between politics and law. In a well-functioning society, political communication and the struggle for power must occur strictly within the framework of the law. One of the Constitutional Court's most essential functions, rooted in the principle of the rule of law, is to safeguard the constitutional and legal legitimacy of political processes. This principle distinguishes the Constitutional Court from other courts that administer justice, and it is this unique feature that should clarify the scope of the interpretation of the norms defining the Court's authority to enforce its judgments.

3. BRIEF OVERVIEW OF THE JUDICIAL PRACTICE OF OTHER COUNTRIES

This section provides a brief overview of the specific mechanisms employed in various countries to promote the enforcement of Constitutional Court judgments. The observed trends are as follows:

- The failure to enforce a Constitutional Court judgment is classified as a criminal offense (e.g., Republic of North Macedonia, Bosnia and Herzegovina);⁷⁷
- The legislative framework explicitly designates the parliament or the executive branch, or both as the entities responsible for enforcing Constitutional Court

⁷⁶ BVerfG, Beschluß vom 04.03.1953. 1 BvR 766/52.

⁷⁷ Article 377, Section 3, Criminal Code of the Republic of North Macedonia; Article 239, Criminal Code of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, 3/03.

judgments (e.g., Republic of Montenegro, Romania).⁷⁸ Austria presents an interesting example in this regard; namely, the Austrian constitution designates the President as the entity responsible for enforcing Constitutional Court judgment. Accordingly, the judgment is executed by the federal or state authorities, including the federal armed forces, according to the President's instructions. The Constitutional Court must submit a request to the President to initiate enforcement;⁷⁹

- The Constitutional Court is empowered to determine the time of invalidation of an unconstitutional norm, the method of enforcement, and the executive body responsible for enforcement (e.g., Republic of Montenegro, Republic of Serbia, Republic of Latvia);⁸⁰
- Upon expiration of the timeframe defined by the court, the body responsible for enforcement officially notifies the Constitutional Court on the measures taken to execute the judgment (e.g., Republic of Montenegro, Bosnia and Herzegovina);⁸¹
- In case of non-enforcement or delay either in enforcing the judgement or providing information on applying appropriate measures, the Constitutional Court issues a judgment that confirms non-enforcement, where the Court can also specify the rule of enforcing the judgment in-question. This judgment is finally sent to the body responsible for enforcement (e.g., Bosnia and Herzegovina).⁸²

IV. RECOMMENDATIONS FOR IMPROVING GEORGIA'S LEGAL FRAMEWORK FOR ENFORCING CONSTITUTIONAL COURT JUDGMENTS

Observation of the practice of enforcing Constitutional Court judgments suggests that the enforcement process lacks consistency, planning, and coordination. The implementation of general measures necessary for the enforcement of court judgments depends entirely on the initiative, resources, and political will of respective agencies.

Based on the analysis of national challenges and best international practices, the authors of this article believe that there is significant potential for improving the process of enforcing Court judgments. Below are recommendations to address deficiencies in the

⁷⁸ Article 151, Constitution of Montenegro (2007); Article 147, The Constitution of Romania.

⁷⁹ Artikel 146, Abs 2, Bundesverfassung.

⁸⁰ Article 52, Law on the Constitutional Court. Constitutional Justice in Asia "Current Problems in Execution of Judgments: Constitutional Justice" (2021) 267; Article 46, paragraph 6, Law on the Constitutional Court (2007); Article 31, paragraph 11, Constitutional Court Law.

⁸¹ Article 52, Law on the Constitutional Court. Constitutional Justice in Asia "Current Problems in Execution of Judgments: Constitutional Justice" (2021) 267; Article 72, paragraph 5; Rules of the Constitutional Court of Bosnia and Herzegovina.

⁸² Article 72, paragraph 6, Rules of the Constitutional Court of Bosnia and Herzegovina.

enforcement process: some require legislative changes, while others can be implemented without them. The proposed measures are as follows:

1. The legislative provision granting the Secretary of the Constitutional Court the authority to take measures for enforcement is largely illusory. The law does not specify any concrete measures. It is recommended that the Constitutional Court be empowered to exert political influence in response to the executive branch's failure to act on a court judgment. Specifically, the court should adopt an enforcement decision that formally acknowledges inaction and instructs the executive body on specific instruments to expedite enforcement;
2. Upon the expiration of the timeframe defined in the judgement, the responsible body should be legally obliged to notify the Court in written form on the measures taken to enforce the decision;
3. As the practice shows, the enforcement process may be hindered by the vagueness of Court judgment; hence, the executive body should have the right to petition the Constitutional Court to provide an interpretation of the judgment or its specific part;
4. The court should not leave the judgements without set deadlines for enactment, unmonitored. These are the judgments, which remain unenforced once a reasonable period has passed;
5. For the judgments that were unenforced within the established deadline or for those without a set timeframe that remain unenforced after a reasonable period has passed, the Court should request updates on the progress of enforcement from the responsible enforcement body at regular intervals, as prescribed by the respective judicial practice or legislation. This process should continue until the judgment is fully enforced;
6. To enhance the court's overall awareness, it is advisable to allow plaintiffs, the Public Defender, and representatives of civil society organizations to submit information to the court on the progress of enforcement reflecting their own perspectives;
7. The enforcement process could be improved by establishing a forum for dialogue between executive bodies and the court. This forum could facilitate working meetings to address cases with complex enforcement issues and actively apply this practice to unresolved court judgments, as needed, at the request of either the court or the executive body;
8. Before setting deadlines when postponing the invalidation of unconstitutional norms, the Constitutional Court should consult with the relevant executive bodies to determine a reasonable timeframe for enforcement;

9. Currently, the court's annual reports on the enforcement of Constitutional Court judgments serve as one of the primary sources of information. However, the accuracy and transparency of their publication require improvement. It is recommended that the lists of unenforced judgments, progress reports submitted by executive bodies and other stakeholders, and court rulings related to enforcement be made publicly accessible. Public scrutiny fosters greater accountability among state institutions, particularly when the enforcement process has a political dimension;
10. It is recommended to establish dedicated staff positions within the court structure (either by creating a new unit or integrating the role into the existing framework) to oversee and monitor the enforcement of court judgments.

V. CONCLUSION

In conclusion, it should be stated that the Constitutional Court of Georgia lacks effective legislative and practical instruments to ensure the enforcement of its judgments. The current normative framework does not adequately promote the implementation of the standards established by the judgment or the will of the Court expressed within it, particularly in cases of legislative inaction.

The research revealed that Georgia's legal framework for enforcing Constitutional Court judgments requires significant improvement. The challenges associated with the enforcement of these judgments are not merely theoretical or legalistic but have substantial practical implications. In practice, there are precedents of unenforced judgments, which combined with the Constitutional Court's ineffective enforcement mechanisms, hinder the practical implementation of the court's will and the realization of the "living constitution" as interpreted by the court.

It is essential that, through appropriate legislative and/or practical reforms, the court's enforcement measures extend beyond merely reporting to the Plenum and documenting cases of inaction in annual reports. These measures must be translated into effective enforcement tools. Specifically, improvements to the current framework should focus on the following areas:

- (a) Establishing mechanisms to exert political pressure on the executive branch to promote enforcement;
- (b) Enhancing the accountability of executive bodies to the court;
- (c) Ensuring transparency in monitoring the enforcement process;
- (d) Creating a forum for dialogue between the court and executive bodies and promoting its active use;

- (e) Strengthening the court's logistical and operational capabilities for monitoring the enforcement process.

For evident reasons, this article does not attempt to exhaustively address all issues related to the enforcement of Constitutional Court judgments. However, the authors hope that the key systemic findings presented here will inspire further academic discourse on the topic and offer valuable insights to both legislators and the Constitutional Court in devising effective solutions to the current challenges.