

## OVERVIEW OF JUDGMENTS OF THE CONSTITUTIONAL COURT OF GEORGIA

### ABSTRACT

The Journal of Constitutional Law continues to provide readers with an overview of the recent case law of the Constitutional Court of Georgia. For the current issue, four landmark judgments of the Constitutional Court have been selected for publication. The editorial board of the journal hopes that this overview of the Court's practice will enhance the level of legal debates concerning the Court's activities.

### I. "SAMSON TAMARIANI, MALKHAZ MACHALIKASHVILI, AND MERAB MIKELADZE V. THE PARLIAMENT OF GEORGIA"

On July 27, 2023, the First Board of the Constitutional Court of Georgia issued a judgment in the case *Samson Tamariani, Malkhaz Machalikashvili, and Merab Mikeladze v. The Parliament of Georgia* and upheld the constitutional complaints N1355 and N1389.<sup>1</sup>

In the case under review, the disputed provisions of the Criminal Procedure Code of Georgia did not allow the victim to appeal the judgment of a superior prosecutor to the court. This included, on the one hand, a refusal to provide the victim with information about the progress of the investigation, citing investigative interests, and on the other hand, the prosecutor's decision to terminate the investigation and/or criminal prosecution, and/or a refusal to initiate criminal prosecution. This applied unless it was a particularly serious crime or a crime, which fell within the jurisdiction of the State Inspector's Service.

According to the complainant, the victim should be involved in the investigative process from the initial stage as having information about the progress of the investigation enables them to monitor the prosecutor's decisions from the outset and protect their interests from potential arbitrariness. The complainants argued that, based on the disputed provision, the victim was deprived of the opportunity to challenge the superior prosecutor's refusal to provide information before a neutral body, which violated the right to a fair trial guaranteed by Article 31, paragraph 1 of the Constitution of Georgia.

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<sup>1</sup> Judgment of the Constitutional Court of Georgia on case N1/5/1355, 1389 "Samson Tamariani, Malkhaz Machalikashvili, and Merab Mikeladze v. the Parliament of Georgia", 27 July 2023.

As for the provisions that did not allow for the possibility of appealing a superior prosecutor's decision to refuse to initiate criminal prosecution or to terminate the investigation and/or criminal prosecution in cases classified as less serious or serious crimes, the complainants argued that the disputed provisions, combined with restriction of the right of access to a court, did also unjustifiably differentiate victims based on the category of the crime – violating the right to equality before the law enshrined in Article 11, paragraph 1 of the Constitution of Georgia. According to the complainants, the absence of a mechanism for judicial oversight in cases of serious or less serious crimes increased the risks of abuse of authority by the prosecutor. Under the existing legal framework, the prosecutor was allowed to arbitrarily qualify actions under different criminal categories.

According to the respondent, the victim's need to access the materials of the criminal case arises solely for general awareness and involvement, given their limited role in the criminal process and restricted enjoyment of the right to a fair trial. At the same time, the prosecutor's refusal to disclose information is not a conclusive act but an interim decision that can be reviewed by a superior prosecutor. Furthermore, the respondent explained that prior to the pretrial hearing, the victim is provided with all materials of the criminal case, and there isn't any exception to this rule. Consequently, the respondent argued that the temporary non-disclosure of information based on the disputed provision did not restrict the rights of the victim.

In discussing the absence of the possibility to appeal a prosecutor's decision not to initiate or to terminate criminal prosecution and/or an ongoing investigation in cases of crime classified as less serious or serious, the respondent argued that victims do not have an elevated interest in challenging such decisions. This is evidenced by the statistically very few cases where victims have sought to protect their rights in court in cases of particularly serious crimes. Additionally, the respondent pointed out that the law explicitly defines the specific grounds for refusing to initiate or for terminating criminal prosecution and investigation, which significantly reduces the risk of abuse of discretionary authority by the prosecutor. Consequently, the need to mitigate such risks through judicial appeal is minimized. Furthermore, allowing appeals for all categories of crimes in general courts would lead to the initiation of groundless complaints, significantly overloading the judicial system and threatening the legitimate goal of timely and effective justice.

The Constitutional Court first noted that, on account of allowing refusal to provide the victim with information about the progress of the investigation without judicial oversight, and prohibiting the appeal of a superior prosecutor's decision to terminate the investigation and/or criminal prosecution or to refuse to initiate criminal prosecution in relation to specific crimes, the disputed provisions restricted the victim's right of access to the court in the light of their legitimate interest in protection, and thus

required a relevant legal constitutional justification on the grounds of the principle of proportionality.

The Constitutional Court noted that the legitimate aim of the disputed provisions was to ensure procedural efficiency and to avoid the artificial overburdening of the courts, which, in turn, facilitated the provision of timely and effective justice. At the same time, the Court explained that prohibiting victims from appealing certain decisions of a superior prosecutor to the court constituted an appropriate and necessary means of achieving the stated legitimate aim.

At the stage of examining narrow proportionality, and as a result of balancing conflicting interests, the Constitutional Court determined that the disputed provisions, by prohibiting the right to appeal the decisions of a superior prosecutor in court, violated the fair balance between the protection of private and public interests. Specifically, in both cases the victim had an elevated interest in appealing the prosecutor's decision to the court, which would outweigh the interest in preventing the overburdening of the judiciary. The Constitutional Court explained that the right to appeal prosecutor decisions, having a significant impact on the victim's interests, serves, in addition to protecting the victim's rights, to prevent possible omissions or arbitrariness by relevant state authorities and correct such omissions made; while, on the other hand, contributes to increasing public trust in these state institutions.

Accordingly, the Constitutional Court concluded that the disputed provisions violated the requirements of Article 31, paragraph 1 of the Constitution of Georgia.

In addition, the Constitutional Court found a violation of the principle of equality of arms in relation to the disputed provisions that prohibited victims, in cases of less serious or serious crimes, from appealing the decision of a superior prosecutor regarding the termination of an investigation and/or criminal prosecution or the refusal to initiate criminal prosecution.

The Constitutional Court noted that the regulatory framework established by the disputed provisions resulted in differential treatment of substantially equal subjects based on the category of the crime. This was unjustified since a person's interest in exercising judicial control over a prosecutor's decision is equally significant for victims of crimes of any severity. Furthermore, the Court reasoned that the differential treatment was of high intensity, as the disputed provisions significantly excluded substantially equal individuals from the right of access to the court.

The Constitutional Court explained that, although the goal of the differentiation - preventing overburdening of the judiciary - served an important public good, the interests of the differentiated individuals to protect their rights through judicial oversight outweighed this legitimate aim. Therefore, the disputed provisions, in the view of the Constitutional Court, also violated the requirements established by Article 11, paragraph 1 of the Constitution of Georgia.

## II. “MERAB MURADASHVILI AND THE PUBLIC DEFENDER OF GEORGIA V. THE PARLIAMENT OF GEORGIA AND THE MINISTER OF INTERNAL AFFAIRS OF GEORGIA”

On June 1, 2023, the First Board of the Constitutional Court of Georgia issued a judgment in the case *Merab Muradashvili and the Public Defender of Georgia v. The Parliament of Georgia and the Minister of Internal Affairs of Georgia* (Constitutional Complaints N1591 and N1605).<sup>2</sup> The Constitutional Complaint N1591 challenged provisions that set the mandatory retirement age for firefighters-rescuers at 55 and established this age limit as grounds for their dismissal. The Constitutional Complaint N1605 contested regulations that set the mandatory retirement age for officers of the Main Division of Perimeter Security of the Penitentiary Department at 60. The complainants requested the disputed provisions be declared unconstitutional, arguing that they violated the right to equality before the law, guaranteed by Article 11, paragraph 1 of the Constitution of Georgia.

According to the complainant party, reaching the age established by the disputed provisions did not *a priori* imply a decline in an individual’s abilities to the extent that they could no longer perform the functions assigned to firefighters-rescuers and/or officers of the Penitentiary Department’s Perimeter Security Division. The complainant party argued that the blanket nature of the disputed provisions failed to take into account the nature of the functions assigned to specific categories of individuals, the specifics of the work to be performed, the individual physical and mental capacities of persons who had reached the legally defined age, etc. Furthermore, the complainant party emphasized that applicable legislation already provided for periodic assessment of firefighters-rescuers’ level of preparedness; therefore, subjecting those officers who have reached the legally defined age to individual physical assessment would not result in additional unreasonable administrative costs. Based on all of the above, the complainant party argued that the disputed provisions violated the right to equality before the law.

The respondent stated that firefighters-rescuers and officers of the Penitentiary Department’s Perimeter Security Division require a high level of physical fitness and health condition to fully perform assigned functions, which, in most cases, individuals aged 55 and 60 no longer possess. Nonetheless, the respondent acknowledged the Constitutional Complaint N1605 and stated that there should be a mechanism to extend the tenure of individuals in similar circumstances as the complainant. Furthermore, the respondent noted that the contested regulations aimed to ensure the effective and uninterrupted functioning of the Emergency Management Service, which, in turn, serves

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<sup>2</sup> Judgment of the Constitutional Court of Georgia on case N1/3/1591, 1605 “Merab Muradashvili and the Public Defender of Georgia v. The Parliament of Georgia and the Minister of Internal Affairs of Georgia”, 1 June 2023.

to protect public safety. The respondent also emphasized that the restrictions set by the disputed provisions were intended to uphold the principle of generational rotation. Additionally, the respondent argued that the restrictions for firefighters-rescuers were not of a blanket nature and that, upon reaching the statutorily defined age, the possibility of extending service tenure based on individual medical examinations was allowed under the law.

The Constitutional Court first evaluated the constitutionality of the mandatory retirement age for firefighters-rescuers. The Court determined that ensuring the effective and uninterrupted operation of the Emergency Management Service as well as upholding the principle of generational rotation are public goods, for which the legislature is authorized to establish differential treatment based on age concerning the right to hold public office. At the same time, based on an analysis of the relevant legislation, the Constitutional Court concluded that it is possible to assess the individual abilities required for fulfilling the functions assigned to firefighters-rescuer and to decide on their continued tenure based on such assessments. Consequently, the Constitutional Court did not consider the blanket prohibition established by the disputed regulation to be an effective means of achieving the legitimate goal of ensuring the smooth and effective functioning of the Emergency Management Service.

The Constitutional Court independently assessed the constitutionality of the disputed regulations in light of the legitimate goal of ensuring the principle of generational rotation. The Court stated that in circumstances where the number of staff positions in public service is predetermined and fixed, the dismissal of individuals upon reaching the defined retirement age facilitates the creation of vacancies for the respective positions and provides opportunities for hiring new personnel. The Constitutional Court further clarified that the principle of fair distribution of positions among generations requires the dismissal of individuals from their positions upon reaching the prescribed retirement age without the need for any individual assessment. In this regard, the Court deemed such a measure both appropriate and necessary to achieve the goals of the principle of generational rotation. Furthermore, the Court held that the disputed provisions, in compliance with the principle of proportionality, effectively ensured the legitimate interest of fair distribution of job positions across generations. The Court emphasized that considering the functions assigned to the Emergency Management Service and its role in ensuring public safety, it is essential for this service to undergo regular staff rotation, which is most effectively achieved through the establishment of an age limit. Based on all of the above, the Constitutional Court rejected the Constitutional Complaint N1591.

Within the framework of the Constitutional Complaint N1605, the Constitutional Court assessed the constitutionality of the disputed provisions solely in relation to the legitimate aim of ensuring the effective and uninterrupted functioning of the penitentiary service.

The Constitutional Court stated that the full execution of the duties of the officer in the Main Division of Perimeter Security of the Penitentiary Department is significantly linked to the individual's physical fitness and health. At the same time, based on the respondent's arguments and an analysis of the relevant legislation, the Court concluded that it is possible to assess the abilities required to perform the functions assigned to these officers individually and to decide on their continued tenure based on such assessments. Consequently, the Constitutional Court upheld the Constitutional Complaint N1605 and declared the blanket prohibition established by the disputed regulation unconstitutional in relation to Article 11, paragraph 1 of the Constitution of Georgia.

### **III. ““LLC IKHTIOSI”, ZAZA PATARIDZE, NIKOLOZ BERIASHVILI, SHALVA ONIANI, VAKHTANG KOBESHAVIDZE, AND MANANA KHARKHELI V. THE PARLIAMENT OF GEORGIA”**

On April 11, 2023, the Second Board of the Constitutional Court of Georgia issued a judgment in the case “*LLC Ikhtiosi*”, *Zaza Pataridze, Nikoloz Beriashvili, Shalva Oniani, Vakhtang Kobeshavidze, and Manana Kharkheli v. The Parliament of Georgia* (Constitutional Complaints N1421, N1448, and N1451)<sup>3</sup>. The case challenged provisions of the Civil Procedure Code of Georgia that, on the one hand, required judgments reached by the first-instance court on disputes arising from contracts to be enforced immediately if such enforcement was expressly stipulated in the contract. On the other hand, these provisions ruled out the possibility for the court to require the reversal of the execution of such judgments in case of annulment of the court judgment. Additionally, the court was granted the authority to deliberate the issue of immediate enforcement of a decision without an oral hearing if the matter was not discussed during the same session in which the judgment was rendered. The complainant party requested that these disputed provisions be declared unconstitutional in respect of Article 31, paragraph 1 of the Constitution of Georgia.

According to the complainant party, the disputed provision made the execution of procedural actions and the enforcement of the court judgment subject to the agreement of the parties. The complainants argued that the right to a fair trial includes the consideration of a case by all three judicial instances and the rendering of an enforceable judgment. Allowing the immediate enforcement of the first-instance court judgment (based on the parties' agreement) restricted the right to effectively appeal the latter, thereby violating the requirements of a fair trial. The complainants also referred to the fact that the disputed provision, in case of the immediate enforcement of the judgment,

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<sup>3</sup> Judgment of the Constitutional Court of Georgia on case N2/3/1421,1448,1451 ““LLC Ikhtiosi”, Zaza Pataridze, Nikoloz Beriashvili, Shalva Oniani, Vakhtang Kobeshavidze, and Manana Kharkheli v. The Parliament of Georgia”, 11 April 2023.

did not take into account the interests of the respondent or other private parties, and as a result, deprived the judge of the ability to apply a proportionality assessment test. Furthermore, the complainant party stated that in disputes arising from contracts, the basis for turning a first-instance court judgment into an immediately enforceable one did not have a formal nature, therefore requiring further examination in each specific case. Hence, the complainants argued that reaching such judgments without an oral hearing also violated the right to a fair trial.

According to the respondent, the Parliament of Georgia, the parties' right to agree, in the framework of the contract, on the immediate enforcement of the judgment was empowering in nature. The respondent also stated that the purpose of the disputed provision was both to ensure the swift restoration of violated rights and the effective administration of justice, as well as to uphold the principles of private autonomy and party disposition. The respondent argued that the disputed provisions did not deprive the party of their right to the guarantees of a fair trial, as the Civil Procedure Code of Georgia provided the opportunity to appeal a judgment on immediate enforcement, as well as for to suspend, postpone, or annul such enforcement by the court of appeals. Furthermore, the respondent noted that a party against whom immediate enforcement was applied had the opportunity to seek compensation for damages or the reversal of resulting outcomes if the higher court issued a judgment in their favor.

Regarding the resolution of the issue without an oral hearing, the respondent stated that the disputed provision served the principle of procedural efficiency. Moreover, when deliberating on the issue, the court was not required to assess the factual circumstances. If necessary, however, the court of appeals was able to review the matter of immediate enforcement through an oral hearing.

The Constitutional Court clarified that the execution of court judgments is a direct requirement of the Constitution. Swift enforcement of court judgments ensures that justice is executed timely and effectively. Simultaneously, the Constitution guarantees the right to appeal judgments, the purpose of which is to annul the legally inconsistent judgments rather than postpone the legal effect of the legally compliant judgments. According to the Constitutional Court, the right to appeal ensures that a first-instance court judgment does not create irreversible consequences that cannot be rectified even by a judgment of the appellate court.

The Constitutional Court determined that the disputed provision created a genuine possibility of enforcing a first-instance court judgment before the appellate court had the opportunity to assess whether such enforcement had led to irreversible consequences. In certain cases, this undermined and/or significantly diminished the effectiveness of subsequent appellate review and decision-making. Hence, the Constitutional Court concluded that there was a risk of the appeal mechanism being reduced to a mere legislative formality, devoid of any real or tangible effect.

Regarding the immediate enforcement of judgment as a contractual term, the Constitutional Court explained that a party remains a subject of the right to a fair trial (as well as other rights), regardless of the decisions they make or the intentions they express. Furthermore, the Constitution of Georgia guarantees effective access to the judiciary. Under these circumstances, the effectiveness of the court hearing the case cannot depend on the agreement between two private parties. Consequently, the Constitutional Court concluded that any condition that restricts effective access to the courts (including appellate courts) can be assessed in relation to the right to a fair trial itself.

When discussing the legitimate aim of the disputed provision, the Constitutional Court noted that the timely restoration of the violated right within a short timeframe does indeed constitute a legitimate aim that may justify certain limitations on the right to a fair trial. In contrast, according to the Constitutional Court, despite the significance of the principle of private autonomy in civil legal relations, it cannot serve as a sufficient standalone basis for restricting the right to a fair trial.

When assessing the proportionality of the restriction, the Constitutional Court explained that the disputed provision established a blanket rule for the immediate enforcement of decisions. Specifically, the judge of the first-instance court was obligated to declare the judgment immediately enforceable, even when they believed that the harm to the respondent's interests resulting from such enforcement outweighed the protected interests of the plaintiff. The Court noted that the legislature had the opportunity to achieve a better balance between the benefits restricted by the disputed provision and the protected interests. This could have been done by granting the first-instance court the authority to make judgments based on a consideration of the conflicting interests.

At the same time, the Constitutional Court emphasized that granting such authority to the court would not be sufficient to ensure the effectiveness of the right to appeal. The Court explained that it is essential for the legislature to establish a legal system that guarantees the effective appeal of first-instance court judgments. To achieve this, the legislature must create mechanisms that provide the appellate court with effective oversight of the enforcement of first-instance court judgments in order to ensure the effectiveness of its own rulings. In this regard, the Constitutional Court noted that, to achieve a fair balance, it is important that the first-instance court's judgment not be enforced until the appellate court has assessed the impact of immediate enforcement on the effectiveness of its judgment and considered the application of interim measures.

According to the Constitutional Court's assessment, to ensure a balance between the interests of the parties, the legislature can establish a special procedure/timeframes within which a party, if desired, may submit a motion alongside their appeal to suspend the enforcement of a judgment or to implement other measures to prevent irreversible



consequences. In such cases, the first-instance court's judgments would become enforceable only after the appellate court has resolved the issue.

Based on the above, the Constitutional Court concluded that the disputed provision violated the right to a fair trial protected under Article 31, paragraph 1 of the Constitution of Georgia. In order to allow the Parliament of Georgia the opportunity to address the issue in compliance with the requirements of the Constitution, the Court postponed the invalidation of the disputed provision until October 1, 2023.

Regarding the resolution of the issue of immediate enforcement without an oral hearing, the Constitutional Court assessed whether the court reviewing the case examined factual circumstances and how significant the right or legal interest restricted by the disputed provision was. Based on an analysis of the matters that could arise during the consideration of such cases in general courts, the Court determined that resolving the issue under the disputed provision requires the thorough examination of factual circumstances in the case and, in some instances, the identification or evaluation of new factual elements. To ascertain objective truth, it is crucial to hear and reconcile the positions of the parties. Additionally, the Constitutional Court emphasized that the matter regulated by the disputed provision involves a particular legal interest of the party, as it ensures that no legal measures are imposed that would substantially harm their rights. Taking this into account, the Constitutional Court concluded that the individual's interest in having the issue of immediate enforcement addressed through an oral hearing significantly outweighs the interest in procedural efficiency and timely justice of the other party in civil proceedings.

The Constitutional Court further noted that, in certain cases, the party against whom the first-instance judgment is ruled to be immediately enforced may not have an interest in an oral hearing. Taking this into account, the Court clarified that discussions regarding when the necessity of conducting the issue through an oral hearing may be excluded would become relevant only if the court, in each specific case, examines the will of the party involved.

In addition, the Constitutional Court emphasized that a mechanism to balance the restriction of the plaintiff's rights cannot simply rely on the court's authority to hold a hearing to decide upon the immediate enforcement of a judgment. Regardless of the type or complexity of the legal relationship in question, the court must always have an adequate legal mechanism that allows for the clarification of the party's position and the assessment of the circumstances/evidence presented by them.

Based on all of the above, the Constitutional Court declared unconstitutional, in relation to Article 31, paragraph 1 of the Constitution of Georgia, the normative content of the disputed provision, which permits the issue of immediate enforcement, as provided for in Article 268, paragraph 11 of the same Code, to be considered and resolved without an oral hearing.

#### IV. “EKATERINE PIPIA V. THE PARLIAMENT OF GEORGIA AND THE MINISTER OF EDUCATION AND SCIENCE OF GEORGIA”

On November 10, 2023, the Second Board of the Constitutional Court of Georgia issued a judgment in the case *Ekaterine Pipia v. The Parliament of Georgia and the Minister of Education and Science of Georgia* (Constitutional Complaint N1528)<sup>4</sup>. The case challenged provisions that excluded the recognition of higher education completed entirely through a distance-learning format abroad, except in cases where the use of the distance-learning format was necessitated by efforts to prevent the spread of a pandemic or to address its consequences.

The complainant argued that the quality of education is determined not by its format but by how well the specific educational program is tailored to the needs of the student. According to the complainant, while there may indeed be an interest in certain educational programs requiring in-person learning for specific components, the complete exclusion of recognizing education obtained through a distance-learning mode unjustifiably restricted the constitutional right to education and the freedom to choose its form.

According to the respondent’s argument, the disputed regulation served the legitimate interest of controlling the quality of education, since recognizing education obtained through a distance-learning format abroad posed the risk that applicants could enroll in foreign higher education programs and subsequently transfer to Georgian educational institutions through the mobility mechanism, bypassing the unified national exams. Furthermore, in the context of distance learning, it was difficult to adequately monitor students’ attendance and assess their knowledge at the exams. Additionally, the respondent emphasized that it was impossible to properly master the practical components of an educational program in a distance-learning format.

The Court explained that the right to education, as enshrined in the Constitution of Georgia, recognizes the possibility of obtaining education in various forms and excludes the state’s authority to establish a completely uniform educational system. However, this does not preclude the state’s authority to take appropriate measures to ensure the control over the quality of education.

When discussing the restriction arising from the disputed provisions, the Court noted that education obtained abroad produces legal effects only after it is recognized by the state. Specifically, in order to continue education at higher level or hold certain positions, the recognition of education obtained abroad by the state is mandatory. Consequently, since the disputed regulation excluded the recognition of education obtained through a distance-learning mode, it was evident that the right to education was being restricted.

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<sup>4</sup> Judgment of the Constitutional Court of Georgia on case N2/7/1528 “Ekaterine Pipia v. The Parliament of Georgia and the Minister of Education and Science of Georgia”, 10 November 2023.

Subsequently, the Constitutional Court assessed the compliance of the disputed provision with the requirements of the principle of proportionality. The Court considered the state's control over education quality as a general legitimate aim of the restriction. Regarding the specific risk of applicants avoiding the unified national exams, the Court pointed out that if the state's legitimate interest was to prevent such avoidance, this goal could be achieved through alternative measures, such as imposing restrictions on mobility from foreign distance-learning higher education programs. Thus, the complete exclusion of recognition for distance education obtained abroad was not deemed a necessary means to achieve the stated aim.

Regarding the monitoring of a student's attendance in lectures during distance learning, the Court noted that modern technologies allow for significant control over the attendance process. For instance, prohibiting the deactivation of a webcam during a lecture ensures that the student listens to the lecture with a probability comparable to that of an in-person learning process. Consequently, the Court did not find the disputed regulation to have a logical connection to the stated legitimate interest.

The Court deliberated on the mechanisms for supervising students during exams in distance-learning setting and noted that technological advancement provides significant possibilities in this regard as well. However, exams conducted according to the so-called closed book principle cannot be monitored in distance-learning conditions to the same extent as in-person exams. Nevertheless, the Court emphasized that certain higher education programs do not require the closed book exams at all, as there is no such necessity given the level and discipline of the specific educational program. Therefore, the disputed provisions, in this respect as well, did not constitute a necessary means for achieving the stated goal.

Regarding the impossibility of mastering the practical components of an educational program in a distance-learning format, the Court stated that, generally, the mastery of practical components is more effective in in-person learning conditions. This is due to the nature of practical components, which often require direct and immediate contact between the student and the course instructor and/or the relevant facilities. However, the degree of interest in mastering practical components varies significantly depending on the focus and level of the educational program. Some educational programs do not include mandatory practical components at all. Consequently, in such cases, the Court was also not convinced of the necessity of the existing restriction.

The Court also noted that if the state perceives a risk that certain educational institutions may fail to take the necessary measures to mitigate the challenges associated with distance learning, it has the authority to recognize only higher education obtained from accredited educational institutions in countries where the quality of education is not in doubt.

Taking all the above into consideration, the Constitutional Court concluded that the normative content of the disputed provisions, which excluded the recognition of higher education obtained entirely through a distance-learning format abroad, unjustifiably restricted the right to education and the freedom to choose its format, as protected under Article 27, paragraph 1 of the Constitution of Georgia.

Furthermore, the Constitutional Court indicated that the immediate invalidation of the disputed provisions upon the announcement of the Court's judgment would obligate the state to recognize higher education obtained entirely through distance learning abroad by any individual. This, in turn, could undermine the legitimate interest in maintaining quality control in education. Therefore, the Court deemed it appropriate to declare the disputed provisions invalid as of July 1, 2024, thereby allowing the Parliament of Georgia and the Minister of Education and Science of Georgia a reasonable period to regulate the matter in accordance with the requirements of the Constitution of Georgia.