

## **Structural and Functional Characteristics of Courts in National and US Criminal Proceedings**

### **Abstract**

The court holds a position of critical importance in Georgia, as it does in most countries around the world. It transcends a mere institution; beyond administering justice, the court represents one of the state's branches of government, known as the judicial branch. Long-standing observation reveals that the effective operation of the court, along with its independence and impartiality, is vitally important for the legal state's functionality.

The primary function of the court is the administration of justice. Specifically, the court resolves dispute among individuals, between individuals and legal entities, and among legal entities themselves. Moreover, it adjudicates criminal cases, issuing verdicts of guilt or innocence (verdicts, in the case of jury involvement). Concurrently, the court addresses cases pertaining to administrative law. All these activities are aimed at embedding the principles of justice and legality into daily life, which, in turn, ensures the peaceful, predictable, and stable existence of citizens.

The judicial system and its myriad complexities consistently remain at the forefront of discussion for both practicing lawyers and legal theorists. The impetus for this article is twofold: its timely relevance and our keen interest in the subject matter. Crafted in Georgian, it targets primarily Georgian-speaking readers, yet it draws upon a rich tapestry of sources in both Georgian and foreign languages, including articles, monographs, and collaborative works. Our exploration centers on the structural and functional features of the judiciary, with a particular focus on comparisons between national (Georgian) and foreign (U.S.) contexts, especially within the realm of criminal proceedings. To navigate through this analysis, we employ a blend of descriptive and comparative research methodologies, while also interjecting personal perspectives on a range of pertinent issues.

**Keywords:** Judicial system, Comparative Legal Analysis

## **1. Introduction**

The political-legal theory of the separation of powers has its roots in ancient Rome. This concept gained renewed significance in efforts to curb the absolutism of medieval monarchs, eventually being modernized by English philosopher John Locke and French thinker Charles Louis de Montesquieu. Within this framework, one critical branch of government—the Court—is tasked with the administration of justice. It stands as an independent and impartial entity, characterized by its self-organization and self-governance. Judges and administrative staff form its governing bodies, elect administrative officials, and establish self-governance mechanisms.

While this paper does not overlook the importance of other branches of law or diminish the court's role therein, it emphasizes the court's unique position in criminal proceedings. The court bears the critical responsibility of determining an individual's guilt or innocence. The prosecution, defense, and court must handle criminal cases with utmost diligence, as these proceedings determine the future course of a person's life. Reflecting on this grave responsibility, we recall the words of the esteemed Russian author Fyodor Dostoevsky: "It is better to acquit ten guilty persons than to convict one innocent."

On June 13, 1997, the Parliament of Georgia enacted the organic law on "common courts." A significant innovation introduced by this new law was the establishment of an advisory body for the President of Georgia – the Council of Justice of Georgia. The responsibilities of the Council of Justice of Georgia were outlined as the appointment and dismissal of judges, organization of qualification exams, development of proposals for judicial reform, and the execution of other tasks as mandated by law. Subsequent to this, numerous additional laws were passed, including the Criminal Procedure Code of Georgia, which addresses critical issues of interest to us and which will be examined in further detail later in this discussion.

## **2. Structural and Functional Features of the Court in Georgia**

In any comprehensive discussion about the judiciary, it's imperative to reference Article 31 of the Constitution of Georgia's second chapter, which asserts that "every person has the right to

appeal to the court for the protection of his rights. The right to fair and timely consideration of the case is ensured." Furthermore, the Constitution distinguishes between the judiciary and the Prosecutor's Office, highlighting their significance within the legal framework.<sup>1</sup>

It's important to recognize that the Constitutional Court of Georgia exercises judicial authority alongside common courts. Serving as the principal body of constitutional oversight, the Constitutional Court plays a pivotal role. Meanwhile, common courts are tasked with administering justice, underscoring the diverse yet unified structure of Georgia's judicial system. Specialized courts can only be established within the common court system, as outlined in sections 3, 40-42.<sup>2</sup> The introduction of military courts is permissible during martial law, but these too must operate within the common court framework. Judges are independent in their duties, and no one is entitled to demand a report on a specific case from them. Given the critical role and the significance of their position, judges enjoy a high status and are granted immunity from criminal prosecution. Specifically, it is prohibited to arrest, detain, search their residence, vehicle, or workplace without the consent of the Constitutional Court in cases involving judges of the High Council of Justice or the Constitutional Court itself, except in the event of a crime. In such instances, the judge must be immediately released if the requisite approvals for their arrest or detention are not obtained.<sup>3</sup> The enforcement of any court act or decision in Georgia is compulsory for all individuals and legal entities, as well as for state and municipal bodies. Georgia's judicial system comprises three levels of courts to ensure the right to appeal decisions or verdicts, aiming to maximize the protection of rights and minimize the risk of errors during legal proceedings.<sup>4</sup> Consequently, the Organic Law of Georgia on common courts stipulates that only a court can annul, amend, or suspend a court decision, and all such actions must be conducted in accordance with legally established procedures.<sup>5</sup>

### **3. Structural and Functional Features of the Court in the National (Georgian) Criminal Process**

Building on our exploration of the court's general structure, role, and functions within Georgian legislation, we now turn our attention to the court's functional features specifically within criminal proceedings, the principal focus of our study.

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<sup>1</sup> Constitution of Georgia, August 24, 1995.

<sup>2</sup> Igor Kveshelava, Edisher Gvenetadze, "Political, Legal, and Historical Aspects of the Constitutional Development of Georgia."

<sup>3</sup> Organic Law of Georgia on Common Courts, December 4, 2009, consolidated publications November 15, 2023.

<sup>4</sup> Demetrashvili Avtandil, Kobakhidze Irakli, "Constitutional Law," Tbilisi, 2010.

<sup>5</sup> Getsadze Gia, "Forms and Types of Constitutional Control," Journal "Man and Constitution," N 1, Tbilisi, 1998.

The court stands as the sole authorized entity to administer justice, hear criminal cases, and issue fair, reasoned, and lawful judgments.<sup>6</sup> It is incumbent upon the court to not refuse the administration of justice or fail to administer it through inaction. Guided by the principles of efficient time and resource allocation, magistrate, city, and district courts are strategically distributed across Georgia.<sup>7</sup>

The specific criminal case is adjudicated based on the location where the defendant first appeared before the court. To safeguard the interests of the parties involved in the process, such as witnesses and victims, minimize costs, or for various other reasons, the court may, with the chairperson's consent, relocate the criminal case to a different court for review. When a plea agreement is finalized, it must be ratified by the court in the jurisdiction where the investigation concluded. Additionally, should the court independently ascertain that a particular criminal case falls outside its purview, it will issue a ruling to this effect and redirect the case to an appropriate court.<sup>8</sup>

Typically, a criminal case is adjudicated by a single judge at the district or magistrate court level. However, if a case is deemed to have significant implications for judicial precedent or presents complex legal challenges, the presiding court's chairperson may mandate a panel of three judges for collective deliberation. This requirement does not extend to jury trials, which are always overseen by a single judge (the presiding judge).<sup>9</sup>

The principle of a competitive and equitable trial in Georgia merits particular emphasis and attention. This principle entails the court's responsibility to ensure equal conditions and opportunities for all parties, preventing any bias or advantage. According to the new Criminal Procedure Code, the court is not permitted to independently seek evidence that could confirm the charges or assist in the defense and exoneration of the accused; such actions are strictly the prerogative of the involved parties.<sup>10</sup> However, the second part of Article 25 of the Criminal Procedure Code of Georgia does allow a judge to pose clarifying questions with the consent of the parties, should it be deemed necessary to uphold the principles of a fair trial. This provision has elicited mixed reactions from both legal participants and the broader community. Uniform practices regarding the judge's questioning rights were not established, leading to scrutiny by

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<sup>6</sup> Pakte Pierre, Melen-Sukramanian Ferdinand, "Constitutional Law," edited by Avtandil Demetrashvili, Tbilisi, 2012.

<sup>7</sup> Gugava Asmat, "Proceedings in Common Courts," Tbilisi, 2014.

<sup>8</sup> Collection of Authors, "Commentary on the Criminal Procedure Code," Tbilisi, 2015.

<sup>9</sup> Criminal Procedure Code of Georgia, October 9, 2009, consolidated publications November 16, 2023.

<sup>10</sup> Ibid.

the Constitutional Court of Georgia.<sup>11</sup> The Court found that the restrictions on a judge's ability to question during case review, as stipulated in the controversial article, should be nullified. Consequently, judges in the General Court were granted greater latitude to clarify case-relevant circumstances, thereby enabling them to deliver lawful, reasoned, and fair judgments. It is imperative that a judge refrains from forming an opinion on the guilt or innocence of the accused or convicted individual prior to rendering a judgment or summary judgment. While the court might deem certain procedural actions necessary during the criminal case review, executing these actions immediately may not always be feasible. In such instances, the court is authorized to instruct a court of the same level or a subordinate court to perform the specified procedural action.<sup>12</sup>

As previously noted, a network of city, district, and magistrate courts is spread across Georgia, facilitating the administration of justice efficiently and at minimal cost. Beyond these, Georgia boasts two Courts of Appeal and one Supreme Court of Cassation, with one appellate court situated in Kutaisi and another in the capital city, Tbilisi. These appellate bodies, through their criminal chambers and investigative panels, undertake the review of all appeals concerning verdicts, rulings, and summary decisions issued by the lower courts. The jurisdiction for appeal, whether to one court or another, is determined based on the territorial divisions of eastern and western Georgia,<sup>13</sup> a delineation further detailed by the High Council of Justice of Georgia. In line with Article 22, Part Four of the Criminal Procedure Code, appeals before the investigative panel at the Court of Appeal are considered unilaterally by a judge. However, as per Part Five of the same article, cases within the Criminal Chamber of the Court of Appeal are examined collegially by a panel of three judges, although there are exceptions. For appeals concerning less serious and serious crimes, a single judge from the Criminal Chamber of the Court of Appeal may unilaterally adjudicate.<sup>14</sup>

The Supreme Court of Georgia, situated in Tbilisi, serves as the pinnacle of the judicial system. The Chamber of Criminal Cases of the Supreme Court reviews cassation appeals stemming from judgments or summary decisions made by the Court of Appeal. These appeals are examined collegially by three judges or, for more significant cases, by a grand chamber of nine judges, which will be discussed in further detail subsequently. A cassation appeal can be lodged

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<sup>11</sup> Decision of the Plenum of the Constitutional Court of Georgia N 3/2/1478, December 28, 2021, Batumi.

<sup>12</sup> Explanatory Dictionary of Basic Legal Terms, Bureau of the Chairman of the Tbilisi Court of Appeal, Tbilisi, 2010.

<sup>13</sup> Resolution of the High Council of Justice of Georgia N 3, June 16, 2020, Tbilisi

<sup>14</sup> Resolution of the High Council of Justice of Georgia N 10, August 11, 2020, Tbilisi

if the appellant believes the Court of Appeal's judgment to be unlawful.<sup>15</sup> Grounds for deeming a verdict unlawful include significant violations of the Criminal Procedure Code not identified by either the first instance court or the Court of Appeal, or when the punishment meted out to the convicted individual grossly misaligns with the nature of their actions and their personality.<sup>16</sup>

The Chamber of Criminal Cases of the Supreme Court of Georgia is empowered to transfer a case to the Grand Chamber of the Supreme Court for review. This step is taken only under conditions where the case's resolution is deemed crucial for establishing uniform judicial practice or presents a rare legal challenge. Typically, a cassation appeal is adjudicated within the confines of the appeal and its counterclaim, with the Supreme Court restricted from exceeding these bounds. However, in 2015, the Constitutional Court of Georgia ruled that the Supreme Court is permitted to extend beyond the appeal's scope only if the legislature decriminalizes the action in question post-offense. In such instances, the court may decide to absolve an individual of liability.<sup>17</sup> Regarding the Supreme Court's procedures, the preliminary review of a cassation appeal deserves mention.<sup>18</sup> Should the court find in favor of the appellant, overturning or amending the judgment on the basis that a legal error occurred during the criminal case's adjudication that also affects other convicts in the same case who haven't filed an appeal, the court must then proceed to address these implications.

Despite Georgia's judicial system comprising three tiers of courts and the High Council of Justice, no individual or entity directly participates in criminal proceedings. Consequently, Georgian legislation permits the revision of verdicts in light of newly discovered circumstances. A request for the reassessment of a judgment based on such circumstances must be submitted to the Court of Appeal, where the original verdict was issued.<sup>19</sup> The right to file this petition is granted to the convicted individual, their lawyer, the prosecutor, and, in the event of the convicted person's death, their legal successor and/or attorney.<sup>20</sup> The judgment

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<sup>15</sup> Irakli Gabisonia, Jemal Gabelia, "Some Issues of Selection and Sentencing," International Peer-Reviewed Scientific-Practical Journal "Jurist," N2, 2017

<sup>16</sup> Irine Bokhashvili, "Pre-Trial Hearing in Criminal Proceedings," Law Journal N1, 2017.

<sup>17</sup> Decision of the Plenum of the Constitutional Court of Georgia N3/1/608,609, September 29, 2015, Batumi.

<sup>18</sup> Irine Bokhashvili, "Problems of Criminal Appeals," dissertation submitted for obtaining a scientific degree of Candidate of Legal Sciences, Ivane Javakhishvili Tbilisi State University, Tbilisi, 2003.

<sup>19</sup> Merab Kartvelishvili, Head of Research, "Standards for the Use of Preventive Measures," Georgian Young Lawyers' Association, Tbilisi, 2020.

<sup>20</sup> Goga Khatiasvili, Author of the Study, "Rights of the Victim in Criminal Proceedings (Georgian Legislation, Practice and International Approaches)," Georgian Young Lawyers' Association, Tbilisi, 2016.

will be subject to review under the previously mentioned conditions if any of the following circumstances exist: a legally binding court judgment reveals that the evidence underpinning the original verdict was falsified; evidence emerges indicating the composition of the court that issued the final judgment was unlawful; a legally binding judgment verifies that the judge, prosecutor, investigator, or jury engaged in criminal activities, or a crime was perpetrated against the jury (such as bribery, coercion, or intimidation); a new law is enacted that decriminalizes the action for which the individual was previously convicted by a final verdict; or a previously unknown fact comes to light that, had it been known at the time of the original trial, could have significantly impacted the case's outcome.<sup>21</sup> Additionally, the revision of a judgment may be warranted if there's evidence to prove the commission of a crime by a person previously deemed justified, or there might be a need to initiate criminal prosecution against another individual whose case was previously dismissed. Furthermore, if the prosecutor presents a resolution indicating a significant violation of the convicted person's rights during the trial, which was not apparent at the time, such as rulings from the European Court of Human Rights or decisions by United Nations committees (including the Committee on Human Rights, the Committee on the Elimination of All Forms of Discrimination Against Women, the Committee on the Rights of the Child, the Committee Against Torture, the Committee on the Rights of Persons with Disabilities, or the Committee on the Elimination of Racial Discrimination), this could also necessitate a case review.<sup>22</sup> Additionally, if a verdict is issued with significant violations of the requirements set by international conventions, such verdicts are also eligible for revision. Specifically, a verdict against individuals convicted based on evidence acquired through secret investigative actions may be subject to review if the Court of Appeal subsequently rules that these investigative actions were unlawful, and the evidence gathered from them was foundational to the retrial verdict.<sup>23</sup>

#### **4. Structural and Functional Characteristics of the Court System in the United States**

In the United States of America, similar to Georgia and many other countries, there exists a three-tiered court system. This system comprises the U.S. District Courts at the first level, the

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<sup>21</sup> Nino Lekiasvili, "Problems of Realization of Presumption of Innocence as the Most Important Principle of Criminal Proceedings," thesis for obtaining master's degree in law, Caucasus International University, Tbilisi, 2020.

<sup>22</sup> Convention on the Elimination of All Forms of Discrimination Against Women, international treaty and agreement of Georgia, November 25, 1994.

<sup>23</sup> Chubinidze Natia, "Covert Investigative Actions and Privacy," Tbilisi, 2019.

Circuit Courts (also known as U.S. Courts of Appeals) at the second level, and the Supreme Court of the United States at the highest level.<sup>24</sup> Currently, the U.S. hosts 94 District Courts, 13 Circuit (appellate) Courts, and one Supreme Court, which is situated in the nation's capital, Washington, D.C. Before delving into the specifics of each tier, it is essential to note that the United States operates under two types of judicial systems.<sup>25</sup> Both systems feature courts of first and second instance and are crowned by a Supreme Court. However, one is centered around the state Supreme Courts, and the other revolves around the U.S. Supreme Court. The courts and their official English titles, as mentioned earlier, belong to the federal court system. In addition to these federal courts, there are also state courts.<sup>26</sup>

Federal courts differ from state courts primarily in their jurisdiction. Specifically, there exists a category of cases that are exclusively heard by federal courts. Federal jurisdiction is somewhat limited, as it predominantly handles cases sanctioned by the United States Constitution or federal laws. For instance, to initiate a lawsuit in federal court, a plaintiff must present a case involving the violation of the U.S. Constitution or federal legislation. Federal courts also adjudicate civil law disputes where the parties are from different states and the controversy or claimed damages exceed \$75,000. This is known as "diversity jurisdiction." Additionally, defendants have the right to request the transfer of a case from state to federal court based on the same criteria, particularly when the plaintiff resides in a different state.<sup>27</sup>

As previously discussed, the District Court represents the initial tier within the federal court system. These courts adjudicate both civil and criminal matters. Judges within the District Courts are appointed for life by the President of the United States, subject to confirmation by the Senate. The operation of the District Court mandates the presence of at least one judge, who, in addition to presiding over cases, is tasked with the administration of the court and oversight of court personnel. This administrative role may include holding specific administrative positions as necessary. Currently, there are approximately 670 district judges appointed across the country.

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<sup>24</sup> Toni-Jaeger Fine, "The U.S. Legal System: The Basics," Carolina Academic Press, 2021.

<sup>25</sup> Tony M. Jaeger Fine, "American Legal Systems: A Resource and Reference Guide," Carolina Academic Press, 2020.

<sup>26</sup> Hemant Sharma, John M. Scheb, An Introduction to The American Legal System, Wolters Kluwer Legal & Regulatory U.S. 2020.

<sup>27</sup> Thomas R. Van Dervort, David L. HUDSON, Law and Legal System, An Introduction to Law and Legal Studies in The United States, Kluwer Legal & Regulatory U.S. 2012.



Magistrate judges also serve in the District Courts, elected to their position by a majority of the district judges. The term for a magistrate judge is set at a maximum of 8 years; however, for appointments made on a part-time basis, the term is reduced to 4 years.<sup>28</sup>

Upon the completion of their terms, magistrate judges may be re-elected to their positions. A magistrate judge performs various duties related to criminal cases, such as issuing search and arrest warrants, making decisions concerning bail, and ruling on the admissibility of evidence that may have been obtained in violation of legal requirements, among other procedural matters.<sup>29</sup>

Moreover, specific federal district courts have been designated to handle particular categories of cases within their predefined areas of jurisdiction. For instance, each federal district is equipped to deal with cases related to bankruptcy. Additionally, certain courts at the national level, such as the United States Tax Court, are authorized to adjudicate tax-related cases. Similarly, the United States Court of Federal Claims is tasked with hearing claims against the federal government, and there is also a specialized court for matters related to international trade, known as the US International Trade Court. These specialized courts ensure that specific types of legal issues are addressed within the appropriate jurisdictional framework.<sup>30</sup>

Before exploring the structure and jurisdiction of state courts, including their handling of criminal and other types of cases, it is essential to address the complex issue of double jeopardy, or the risk of convicting an individual twice for the same offense. While civil cases can be moved from state courts to federal courts, this flexibility does not extend to criminal cases. A criminal case must be adjudicated by the court in which it was originally filed, following the submission of charges by the prosecution. Although the U.S. Constitution and various laws safeguard against charging an individual twice based on the same facts and evidence, the application of this principle is not always straightforward or uniform.<sup>31</sup>

The principle of double jeopardy, or the prohibition against being tried twice for the same offense, does not uniformly apply across state and federal jurisdictions. This means that the prohibition on double jeopardy does not necessarily prevent both state and federal courts from prosecuting the same individual for the same conduct under certain circumstances.

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<sup>28</sup> Lawrence M. Friedman, *American Law an Introduction*, Second Edition, W.W. Norton & Company, 1998.

<sup>29</sup> Sir Mark Hedley, *Modern Judge, Power, responsibility and society's expectations*, Jordan Publishing the Limited, 2016.

<sup>30</sup> Rafael Leal-Arcas, *International Trade and Investment Law, Multilateral, Regional and Bilateral Governance*, Elgar Publishing, incorporated, Edward, 2010.

<sup>31</sup> George C. Thomas, *Double Jeopardy: The History, The law*, NYU Press, 1998.

Consequently, if a person is charged with premeditated murder and cannot be convicted in state court, there are scenarios in which the federal government might prosecute the case under federal law, given that murder and several other crimes can be considered offenses under both state and federal criminal law. This complexity is often highlighted by American lawyers in their advertisements, stressing the importance of seeking professional legal advice. Each case is unique and navigating the intricacies of potential double jeopardy issues requires specialized knowledge and expertise.<sup>32</sup>

The next level within the federal court system is represented by the U.S. Courts of Appeals. In the United States, these appellate courts are considered among the most powerful and influential, second only to the Supreme Court of the United States. This is largely because their rulings often set precedents that impact millions of individuals within their jurisdictions. The significant role of the Courts of Appeals is further underscored by the fact that their decisions are frequently the final word on a case; the U.S. Supreme Court hears only about 1% of the cases submitted to it annually, leaving the appellate courts as the ultimate deciders in the vast majority of federal cases.<sup>33</sup>

Currently, there are 13 appellate courts in operation across the U.S. territory. Twelve of these courts are distributed among various states, each serving the district courts of its region and the states around it. The thirteenth Court of Appeals, known as the United States Court of Appeals for the District of Columbia Circuit, is located in the District of Columbia (the nation's capital, Washington D.C.) and exclusively serves the District of Columbia. This gives it the distinction of being the Court of Appeals with the smallest geographical jurisdiction in the United States.

All Courts of Appeal are staffed by a designated number of judges, with the number varying based on the court's jurisdictional scope and workload. For instance, the First Circuit Court of Appeals comprises 6 judges who oversee cases from 5 district courts across Maine, Massachusetts, New Hampshire, Puerto Rico, and Rhode Island. This is relatively small when compared to other appellate courts. On the other hand, the Ninth Circuit Court of Appeals, with a vast territorial jurisdiction that includes the entire west coast of the United States, Alaska, Hawaii, and a total of 11 states, is staffed by 29 judges. This court reviews decisions from 13 district courts, reflecting the extensive area and population it serves.<sup>34</sup>

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<sup>32</sup> Gary Falkowitz, *The Complete Guide to Law Firm Intake*, Expert Press, 2018.

<sup>33</sup> David G. Savage, *Guide to The U.S. Supreme Court*, Fifth Edition, CQ Press, 2010.

<sup>34</sup> Daniel j. Meador, Maurice Rosenberg, Paul D. Carrington, *Appellate Courts*, The Michie Company.

Similar to the Ninth Circuit, the other 11 appellate courts operate under this system, catering to their respective jurisdictions. Across many states and at the federal level, appellate court panels typically consist of 3 judges who collectively decide on cases. A decision is reached by a majority vote among these judges. Beyond the standard appellate courts, there are specialized courts that address specific types of appeals. These include courts that hear veterans' complaints and the United States Court of Appeals for the Armed Forces, which deals with appeals related to military matters.<sup>35</sup>

The Supreme Court of the United States stands as the pinnacle of the judicial system, holding the ultimate authority to review and decide upon cases that have ascended from the Courts of Appeals. It's important to note the dual court system in operation within the USA, comprising both federal and state jurisdictions. For instance, if a case concerning the First Amendment's guarantee of free speech is adjudicated by a state Supreme Court and is then appealed, it could potentially be brought before the U.S. Supreme Court. However, if the state Supreme Court's deliberation on the matter was grounded not in federal law but in a state law that addresses a similar aspect of free speech, an appeal to the U.S. Supreme Court would not be permissible.

The process of appealing a decision from the district and appellate courts to the Supreme Court is available to any party involved in a case. Unlike the lower courts, however, the Supreme Court possesses discretionary power over the cases it chooses to hear. In the majority of instances, for a case to be considered by the Supreme Court, the involved parties must submit a "writ of certiorari," which is essentially a petition for the Court to review the case. Should this request be accepted, the Supreme Court will then set a date for an oral argument to hear the case in detail.<sup>36</sup>

If an appeal to the U.S. Supreme Court is found to be inadmissible, the decision rendered by either the appellate court or the state Supreme Court becomes final and legally binding. It's noteworthy that of the thousands of appeals submitted to the U.S. Supreme Court annually, only about 1% are actually heard. The Court's docket is reserved for cases of significant national importance, those that resolve conflicts in the application of law among lower courts, or instances where a decision from a lower court is seen as a clear and serious misapplication of justice that could undermine the principles of fairness and legal integrity.

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<sup>35</sup> Gary D. Solis, *The Law of Armed Conflict, International Humanitarian Law in war*, Cambridge University Press, 2021.

<sup>36</sup> N. E. H. Hull, William James Hull Hoffer, Peter Charles Hoffer, *The Supreme Court an Essential History*, University Press of Kansas, 2007.

The U.S. Supreme Court is composed of nine justices. These justices are nominated by the President of the United States and must receive confirmation from the Senate to serve. Appointments to the Supreme Court are for life, underscoring the profound responsibility and enduring impact justices have on American jurisprudence. While the United States Constitution does not specify qualifications for Supreme Court justices, all current justices hold advanced degrees in law, and many have extensive experience as judges in district courts.<sup>37</sup> This level of qualification ensures that the Supreme Court is equipped with a deep understanding of the law and a broad perspective on its application across the diverse legal landscapes of the United States.

It is also common for the U.S. Supreme Court to include individuals who hold significant prestige within legal and academic circles, such as law professors. Among the nine justices, one serves as the Chief Justice of the United States, a position nominated by the President and confirmed by the Senate. It is worth noting that the nominee for Chief Justice does not need to be a sitting member of the Supreme Court at the time of their nomination. Historically, of the 17 individuals who have served as Chief Justice, only 5 were Associate Justices of the Supreme Court prior to assuming the role of Chief Justice.

In contrast to some countries that have a separate constitutional court, the United States does not. The U.S. Supreme Court serves as the highest authority in constitutional matters. It is tasked with adjudicating cases that may involve disputes between states, the constitutionality of laws and legal documents, and ensuring their compliance with the U.S. Constitution. This consolidates the Supreme Court's role as the ultimate arbiter of constitutional interpretation and enforcement, highlighting its critical function in the American legal system.<sup>38</sup>

The state court system, as implied by its name, performs functions that are somewhat parallel to those of the federal court system, though there are distinctions that set it apart. While we have not delved into the state judicial system with the same depth as the federal system, the primary reason for this approach is their conceptual similarity. However, it is crucial to focus on aspects that distinctly differentiate state courts from their federal counterparts. Although we have previously touched upon these differences, we will now more thoroughly examine a critical component of the judicial system: jurisdiction. This exploration will highlight the unique authority and scope under which state courts operate, distinguishing them from the federal courts in terms of the types of cases they hear and the legal principles they apply. Beyond the geographical jurisdictional differences with federal courts, state courts also diverge

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<sup>37</sup> Elder Witt, Joan Biskupic, *Guide to The U.S. Supreme Court: 001*, CQ Press an Imprint of SAGE, 1996.

<sup>38</sup> Alpheus Thomas Mason, Jr. Stephenson Donald Grier, *American Constitutional Law*, Routledge, 2017.

based on the nature of the cases they adjudicate.<sup>39</sup> While the Federal District, Appellate, and U.S. Supreme Courts hear criminal cases involving federal offenses (with our focus here on criminal law), state Trial Courts (often referred to as Courts of First Instance) handle criminal cases that fall under state law. Additionally, state courts address a broader spectrum of legal matters, including issues that arise at the municipal level. If a party wishes to challenge a decision made at the trial level, they have the right to appeal to the State Appellate Courts.<sup>40</sup> Similar to the federal system, there is also a State Supreme Court within each state's judicial framework, which reviews decisions from the appellate courts. Unlike the U.S. Supreme Court, which selects a small percentage of cases for review, the State Supreme Courts are more likely to hear appeals. In instances where a case at the trial level involves allegations of constitutional violations, a decision made by a panel of three judges can lead to an automatic review by the U.S. Supreme Court, especially in cases that directly challenge the Constitution. Administrative, municipal, or jurisdictional disputes within a state are typically resolved by state courts. However, legal disputes between states fall under the exclusive jurisdiction of the U.S. Supreme Court, underscoring its role as the ultimate arbiter in inter-state legal matters. This layered jurisdictional structure ensures that both federal and state legal issues are appropriately addressed within the United States' complex legal framework.<sup>41</sup> The role of jury trials within the U.S. judicial system is a fundamental aspect that cannot be overlooked, embodying a deep-seated belief in the justice process. The value of jury trials was eloquently summarized by Lord Devlin in 1956, who stated that a jury trial is "more than a weapon of justice and more than one of the wheels of the Constitution; it is a lamp that shows that freedom lives." This statement underscores the jury trial's significance not only as a procedural element but as a symbol of democratic freedom and public participation in the legal process. The application and approach to jury trials vary significantly across different jurisdictions. For instance, in England and Wales, the use of juries in criminal trials is a mandatory part of the legal process. In contrast, countries like France restrict jury involvement to certain types of criminal cases, where jurors and judges collaboratively determine the outcome. Meanwhile, other nations employ the jury system in an even more limited capacity, reflecting a diverse range of legal traditions and approaches to justice. This variability highlights the jury trial's adaptability to different legal cultures and its enduring importance as a mechanism for

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<sup>39</sup> P. E. O. Oguno, *Principles of Constitutional Law*, AJPO journals and books publishers.

<sup>40</sup> E. Allan Farnsworth, *Introduction to the Legal System of the United States*, Fourth Edition, Oxford University Press, Incorporated, 2010.

<sup>41</sup> David L. HUDSON, *Constitution Explained: A Guide for Every American*, Visible Inkpress, 2022.

ensuring that the principles of justice and liberty are upheld.<sup>42</sup> Georgia also features in the discussion on the use of jury trials within its legal system. The Criminal Procedure Code of Georgia specifies the categories of crimes for which an accused individual can request a jury trial. In the United States, the jury trial is particularly esteemed, serving as a significant check on the power and influence of the judiciary. By incorporating ordinary citizens into the judicial process, it is believed that the broader societal values and judgments are brought to bear on legal proceedings. One of the distinguishing aspects of jury trials, particularly in the U.S., is the autonomy granted to the jury in reaching a verdict. Unlike judges, jurors are not required to provide a rationale for their decision. They are empowered to deliver a verdict based on their collective assessment of the evidence presented during the trial. This feature underscores the trust placed in the jury's judgment and its role in reflecting the community's conscience in the administration of justice.

An acquittal verdict that appears to disregard evidence may reflect a population's critical stance towards an unpopular or contentious law.<sup>43</sup> This phenomenon is not unique to the United States; however, it is a point of contention there, with critics arguing that average jurors may struggle to adequately assess scientific and technical evidence to reach a just verdict. There is also a prevalent view that jurors can be overly influenced by one or two persuasive individuals within the jury, leading to concerns about the integrity of jury decisions. Additionally, some contend that juries in the United States may exhibit undue sympathy towards defendants, supported by statistics suggesting that juries are more inclined to acquit than judges. The process of deliberation, consideration, and voting by the jury varies significantly between civil and criminal cases in the United States. For instance, in California, a civil case verdict requires the agreement of three-quarters of the jurors, while criminal cases demand a unanimous decision to convict or acquit the defendant. Typically, a jury consists of twelve members, though this can vary. During deliberations, there may be alternate jurors present, as well as a designated foreperson who plays a crucial role in facilitating discussions and leading the jury towards a verdict. This system underscores the nuanced and complex nature of jury deliberations, reflecting the varied approaches to ensuring fairness and justice in the legal process.<sup>44</sup>

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<sup>42</sup> Stephen J. Adler, *The Jury, Trial and Error in The American Court Room*, Crown Publishing Group T.H.E. 1994.

<sup>43</sup> Raymond Wax, *Philosophy of Law: A Very Sort Introduction*, Second Edition, Oxford University Press, 2014.

<sup>44</sup> Lawrence M. Friedman, *The Gig Trial, Law is Public Spectacle*, University Press of Kansas, 2015.

## **Conclusion**

This article commenced with an exploration of the court's role as a judicial institution within the state, focusing on the legal framework of Georgia. We discussed the Constitution of Georgia, the Organic Law of Georgia on Common Courts, and the Criminal Procedure Code of Georgia to make the normative foundations, directly impacting the operation of courts in Georgia, transparent and comprehensible to our readers.

Additionally, we delved into the resolutions of the High Council of Justice of Georgia, which shed light on the administrative organization and overall functioning of the judiciary across the Georgian territory. The Criminal Procedure Code of Georgia emerged as a pivotal statute in understanding the structural and functional characteristics of the court system, illustrated through the lens of Georgia. This code facilitated a detailed examination of various procedural aspects, including the conduct of criminal trials, case appeals, verdict revisions due to new evidence, and other judicial procedures.

The latter portion of the article dedicated itself to a comprehensive review of the United States court system, encompassing the federal and state courts, Courts of Appeals, and Supreme Courts. The United States was specifically chosen for its embodiment of the common law legal system, presenting a stark contrast to Georgia's civil law system. This juxtaposition allowed for an insightful comparison of court functionalities and features across these two predominant legal systems. Moreover, the institution of the jury, a crucial component in criminal proceedings, was scrutinized for its merits and demerits, engaging with the perspectives of both critics and proponents.