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The Role of the Constitutional Court of Georgia in Protecting Constitutional Human Rights and Freedoms

Abstract

In line with the Constitution of Georgia, constitutional oversight is executed by a specially established entity—the Constitutional Court of Georgia. This Court serves as a guardian of fundamental human rights and freedoms. Through the submission of individual constitutional complaints to the Constitutional Court, individuals are afforded a mechanism to advocate for their rights. Consequently, the individual constitutional complaint represents a critical legal tool aimed at providing effective legal protection and upholding the Constitution. While there are numerous issues concerning the nuances of constitutional proceedings in the context of individual constitutional complaints, many of these issues remain inadequately explored. Thus, the objective of this article is to examine the prevailing challenges associated with the Constitutional Court of Georgia's role in safeguarding human constitutional rights and freedoms. It seeks to uncover the unique aspects of proceedings involving individual constitutional complaints, scrutinize existing theoretical dilemmas, and present resolved viewpoints.

Keywords: constitutional oversight, human rights.

Introduction

The development of effective legal protection mechanisms for the country's Basic Law, alongside the establishment of judicial guarantees for the effective enactment of constitutional and legal norms, is crucial for the sustenance of a modern democratic and lawful state. This importance stems from the Constitution being the paramount document of the state, with its norms governing the core issues related to the exercise of power.

Pursuant to Article 59 of the Constitution of Georgia, the Constitutional Court is designated as the judicial body responsible for constitutional oversight in Georgia. The Constitutional

Court's role in constitutional control is manifested through its evaluation of the constitutionality of legislative and executive acts, and its authority to deem them unconstitutional.¹

The Constitutional Court of Georgia plays a pivotal role in safeguarding human constitutional rights and freedoms, exhibiting a wide array of practices in this domain. Thus, this work aims to delve into the prevailing challenges associated with the Court's authority in protecting human constitutional rights and freedoms. It seeks to dissect both theoretical and practical issues, aiming to formulate pertinent conclusions.

This article will explore the functions and practical importance of the individual constitutional complaint; it will identify the entities entitled to petition the Constitutional Court and define the scope of constitutional oversight. Further discussion will cover the legal ramifications of the Court's rulings in terms of safeguarding constitutional rights and freedoms. This includes examining the extent of the Constitutional Court's decisions and the challenges associated with implementing these rulings.

The investigation of these topics within the article will employ various scientific research methods, including historical, logical, analytical, and normative approaches. Additionally, the comparative-legal method will be utilized, with a particular focus on German law, to offer a broader perspective on the issues at hand.

1. The Nature and Functions of the Constitutional Control Institute

In a state oriented towards democracy, the Constitution stands as the supreme legal authority, acting as both a legal guarantor for the democratic evolution of society and a mechanism for the protection of human freedom and social justice. Hence, given its pivotal role and objective, safeguarding the Constitution itself demands special focus.²

In a lawful state, governance is conducted through the rule of law, which comprises a system of norms organized hierarchically. At this hierarchy's apex lies the Constitution, the country's supreme law, mandating that all other normative acts align with the Constitution's requirements and principles.³ Consequently, the crucial task of legally protecting the Constitution is often achieved via constitutional control.

¹ Jinjolava, Z., *Constitution and Problems of Georgian Law* (Tbilisi, 2002), p. 126.

² Kochlamazishvili, B., *Legal Defense of the Constitution* (Tbilisi, 2009), p. 1.

³ Izoria, L., *Modern State Modern Administration* (Tbilisi: Siesta, 2009), p. 190.

The preamble to the Constitution of Georgia proclaims the country's resolute commitment to establishing a legal state. Article 4 (4) of the Constitution of Georgia further specifies that "State Power is exercised within the framework established by the Constitution and law," underscoring that the operations of all three government branches in a legal state must adhere to the Constitution.⁴

Ensuring adherence to the Constitution is not an automatic process; violations can occur both intentionally and through errors made during legal evaluations. To mitigate such undesired outcomes, constitutional control was established, representing a key mechanism for the legal protection of the Constitution.⁵

In contemporary scholarship, constitutional control is recognized as a distinct prerogative of qualified state bodies. Through this authority, these entities affirm the Constitution's supremacy within the hierarchy of normative acts.⁶ Additionally, constitutional control encompasses the defense of a broad spectrum of human rights, fostering political stability, social order, and economic growth.⁷

Today, constitutional control is regarded as a fundamental hallmark of democracy and legal governance globally. However, the institution varies across different nations, often exhibiting unique characteristics that influence its structure and operational dynamics.⁸

For instance, the primary function of the Constitutional Control Institute in Germany is to oversee and safeguard the Federal Constitution and the constitutions of the individual federal states against infringements by any state bodies.⁹

In Georgia, according to its legislation, the practice of constitutional control manifests through the examination of the constitutionality of normative acts issued by legislative and executive authorities. Acts found to be in violation of the Constitution are declared unconstitutional.¹⁰

⁴ Ibid.

⁵ Kakhiani, G., "Some Theoretical Aspects of Constitutional Control," *People and Constitution*, no. 4 (2005): p. 39.

⁶ Getsadze, G., "Forms and Types of Constitutional Control," *Man and Constitution*, no. 1 (1998): p. 24.

⁷ Brinks, D. M., Blass, A., *Rethinking Judicial Empowerment: the New Foundations of Constitutional Justice*, *International Journal of Constitutional Law*, 15(2), 2017, S.298.

⁸ Deisadze, "Origin of Constitutional Control and Its Implementing Body," *Justice and Law*, no. 4 (23), 2009, p. 90.

⁹ Khubua, G., Traut, I., *Constitutional Justice in Germany* (Tbilisi: GZT, 2001), p. 15.

¹⁰ Khmalaadze, V., "The Role of the Constitutional Court and the Prospect of Increasing the Effectiveness of Its Activities," *Man and Constitution*, no. 4 (2000), p. 126.

2. The Scope of Constitutional Control

In German law, the scope of constitutional control encompasses acts of state power, which include executive, legislative, and judicial actions.¹¹ Crucially, these acts must be issued by German state entities.¹²

As stipulated in Article 60, paragraph 4, subparagraph "A" of the Constitution of Georgia, the Constitutional Court of Georgia's scope of constitutional control can include any normative act concerning the fundamental human rights outlined in the second chapter of the Constitution of Georgia. Thus, under Georgian legislation, the ambit of constitutional control is to assess whether legal acts issued by the executive and legislative branches align with the Constitution. However, the examination of court decisions and administrative-legal acts for constitutional compliance does not fall within the Constitutional Court's jurisdiction, in accordance with Georgian law.

When addressing the scope of constitutional control, it's pertinent to consider the prevalent view in legal scholarship that the Constitutional Court should have the jurisdiction to oversee the constitutionality of decisions rendered by common courts. This perspective has both numerous proponents and detractors. Nonetheless, it could be deemed logical to empower the Constitutional Court with the authority to examine the constitutionality of decisions from common courts, real acts, and administrative-legal actions.

Georgia's legal framework assigns the Constitutional Court the task of ensuring the constitutionality of acts issued by all three branches of government. However, there exists a concern regarding the oversight of the judiciary. Specifically, it is ambiguous why Georgian law omits the possibility of unconstitutional decisions by general jurisdiction courts. If the establishment of the constitutional control mechanism aimed to preserve the constitutional balance among the branches of government, it then seems prudent to extend constitutional control to encompass the operations of general jurisdiction courts, affirming the Constitution's supremacy.¹³ Hence, for the Constitutional Court to effectively fulfill this role, it should possess the authority to review the constitutionality of judicial decisions.

¹¹ Bonner Kommentar, Zweitbearbeitung, Hamburg, 1967, S. 10.

¹² Sachs M, GG Kommentar, 6. Auflage, München, 2011, S. 496.

¹³ Chkheidze, G., Kaldani, T., "Constitutional Court of Georgia - Reality and Development Prospects," People and Constitution, no. 4 (2000), p. 218.

Under existing legislative frameworks, constitutional petitions from general courts represent the sole method for the body tasked with constitutional oversight to engage with common courts. This is because common courts lack the jurisdiction to conduct constitutional review themselves and can only challenge the constitutionality of a normative act in the Constitutional Court through such petitions. In this context, the general court participates in a specific form of constitutional scrutiny. Consequently, to foster a unified interpretation of the Constitution's supremacy and its provisions, it might be beneficial to empower the Constitutional Court with the authority to examine the constitutionality of decisions issued by common courts.¹⁴

3. The Constitutional Court: A Unique Entity for Constitutional Oversight

The cornerstone of constitutional protection lies in identifying and rectifying norms that infringe upon it, serving as the most effective form of constitutional oversight. The mandate of entities tasked with constitutional control is to assess the conformity of various normative acts with the country's Basic Law.¹⁵

The Constitutional Court stands as a distinct entity designated for constitutional oversight. Its primary role is to evaluate the alignment of acts and decisions emanating from all three branches of State Power—executive, legislative, and judicial—with the Constitution.¹⁶ Endowed with a specific supervisory capacity,¹⁷ the Constitutional Court bears the crucial responsibility of safeguarding the legal integrity of the Constitution and ensuring its paramountcy.¹⁸

In addition to upholding the Constitution's principle of supremacy, another vital role of the Constitutional Court involves establishing and maintaining the principle of mutual restraint and balance among the branches of government. It is the Constitutional Court that acts as the

¹⁴ Kochlamazishvili, B., *Legal Defense of the Constitution* (Tbilisi, 2009), p. 115.

¹⁵ Kakhiani, G., *Constitutional Control in Georgia: Analysis of Theory and Legislation* (Tbilisi: Meridian, 2011), p. 31.

¹⁶ Schlaich/Korioth, *Das Bundesverfassungsgericht – Stellung, Verfahren, Entscheidungen*, 6. Auflage, München, 2004, S. 6.

¹⁷ Sager, L. G., *Constitutional justice*, *New York University Journal of Legislation and Public Policy*, 6(1), 11-20, 2002, S. 15.

¹⁸ Starck C, *Der demokratische Verfassungsstaat*, Tübingen: Mohr Siebeck, 1995, S. 33. Starck C, *Der demokratische Verfassungsstaat*, Tübingen: Mohr Siebeck, 1995, S. 33.

custodian of equilibrium between these branches.¹⁹ Thus, empowering the Constitutional Court with oversight capabilities is essential for monitoring the actions and decisions of all three government bodies.²⁰ For the Constitutional Court to effectively fulfill its role in constitutional oversight, robust guarantees of independence for the entity administering constitutional justice are indispensable.²¹

In Germany, the Federal Constitutional Court is entrusted with the authority to perform constitutional control, a special status attributed to its role as the principal defender of the Constitution's integrity.²²

In Georgia, the Constitutional Court is vested with the responsibility of exercising constitutional control. Its fundamental duties include safeguarding the Constitution's supremacy, ensuring the implementation of the principle of separation of powers, and protecting the constitutional rights and freedoms of citizens.²³

The Constitutional Court stands as the guardian of fundamental rights, primarily because its core function, as previously highlighted, involves the protection of human rights and freedoms. This protection is facilitated through the adjudication of individual constitutional claims.²⁴

By submitting an individual constitutional claim to the Constitutional Court, individuals are afforded the chance to advocate for their rights. Consequently, an individual constitutional claim represents a crucial legal instrument through which bearers of constitutional rights can engage constitutional control mechanisms to safeguard their rights and ascertain that the actions of the state remain within constitutional confines.

4. Practical Importance of Individual Constitutional Claim in terms of Protection of Human Rights and Freedoms

¹⁹ Säcker H, Das Bundeseverfassungsgericht, 5. Auflage, München:C.H. Beck, S. 1998,18.

²⁰ Wember V, Verfassungsmischung und Verfassungsmittel, 1. Auflage, Berlin, 1997, S. 223.

²¹ Di Gregorio, A, The role of constitutional justice in contemporary democracies, National Law School of India Review, 34(2), 2022, S. 36.

²² Khubua, G., Traut, I., Constitutional Justice in Germany (Tbilisi: GZT, 2001), p. 15.

²³ Kverenchkhiladze, G., "Legal Protection of the Constitution," Man and the Constitution, no. 3 (2006), p. 41.

²⁴ Degenhart C, Staatsrecht I, Staatsorganisationsrecht, 27. Auflage, Heidelberg, 2011, S. 754.

The individual constitutional claim serves as a crucial mechanism for citizens to safeguard the fundamental rights and freedoms enshrined in their nation's Basic Law or Constitution.²⁵ This legal tool grants individuals direct access to constitutional justice, allowing them to seek redress for infringements of their rights.²⁶

Under Article 60, paragraph 4, subparagraph "A" of the Constitution of Georgia, the Constitutional Court is empowered to review the constitutionality of normative acts in light of the basic human rights outlined in the Constitution's second chapter, based on submissions by individuals, legal entities, or the public defender. This provision ensures that the Constitutional Court can address and adjudicate on matters concerning the constitutionality of laws and regulations that impact the fundamental rights recognized in Chapter II of the Constitution of Georgia.

Additionally, this regulatory framework is mirrored in subparagraph "E" of the first paragraph of Article 19 of Georgia's law on the Constitutional Court. This clause authorizes the Constitutional Court to assess and rule on the constitutionality of normative acts concerning the rights and freedoms specified in Chapter II of the Constitution. This legal structure underscores the significance of the individual constitutional claim in the broader context of human rights protection, providing a formal avenue for individuals to challenge laws and actions that may contravene the constitutional guarantees of their rights and freedoms.

The provision in subparagraph "E" of the first paragraph of Article 19 of the law of Georgia on the Constitutional Court underscores the Constitutional Court's authority to evaluate and determine the constitutionality of normative acts related to the matters outlined in Chapter II of the Constitution of Georgia. This regulatory framework provides a crucial avenue for the protection and enforcement of human rights and freedoms within the country, enabling the Constitutional Court to act decisively in cases where normative acts may infringe upon the constitutionally enshrined rights.

Internationally, the concept of an individual constitutional claim as a means for protecting human rights and freedoms finds parallels in the legislation of other democracies, illustrating a common legal mechanism aimed at safeguarding fundamental rights. For instance, under Article 93, part I, subparagraph 4 of the German Basic Law and Article 90 of the law "on the Federal Constitutional Court," an individual has the right to file a constitutional complaint with the Federal Constitutional Court if they believe their fundamental rights have been

²⁵ Maunz T, Dürig G, GG Kommentar, Bd. III, München, 2012, S. 65.

²⁶ Durr, S, Comparative Overview of European Systems of Constitutional justice, Vienna Journal on International Constitutional Law, 5(2), 2011, S. 167.

violated. This process ensures that individuals have recourse to a higher judicial authority to challenge laws or actions that infringe upon their constitutionally protected rights.²⁷

Similarly, Austrian legislation provides for the right of all individuals to challenge subordinate normative acts through individual submissions or complaints. This mechanism empowers citizens to seek judicial review of government actions or legal provisions that may adversely affect their rights, ensuring that the principles of justice and constitutional supremacy are upheld.²⁸

The purpose of an individual constitutional claim is to nullify acts deemed incompatible with the Constitution and to restore violated rights.²⁹ Additionally, it serves to define constitutional norms, further develop them, and establish uniform practices.³⁰

4.1. The Entity Entitled to Submit an Individual Constitutional Claim

In accordance with Article 60(4), subparagraph "a" of the Constitution of Georgia, the subjects authorized to file an individual constitutional claim are a natural person, a legal person, or a public defender. The establishment of this specific provision was motivated by the rationale developed in the Constitutional Court's decision of June 2010, №1/466, in the case "Public Defender of Georgia v. Parliament of Georgia," where the entry of Article 39, subparagraph "a" of the Organic Law of Georgia on the Constitutional Court of Georgia was declared unconstitutional for excluding entities not registered in Georgia.³¹

In light of the aforementioned decision, revisions were made to Georgia's legislation, expanding the scope of individuals entitled to appeal to the Constitutional Court. According to the current iteration, any natural person (including Georgian citizens, foreign nationals, and stateless persons) and legal entities possess the right to lodge an appeal.

As previously noted, Article 34 of the Constitution of Georgia recognizes legal entities as subjects of fundamental rights alongside natural persons. However, it's essential to highlight an exception regarding legal entities under public law, which typically do not feature as

²⁷ Büchting/Heussen, *Bekisches, Rechtsanwalts-Handbuch*, 9. Auflage, München: C.H. Beck, 2007, S. 42-55.

²⁸ Sharashidze, M., "Peculiarities of the Activities of the Constitutional Court of Austria in the Field of Exercising the Competence of Norm Control," *Human and Constitution*, no. 3 (2006), p. 15.

²⁹ Detterbeck S, *Streitgegenstand und Entscheidungswirkungen im Öffentlichen Recht*, Tübingen, 1995, S. 512.

³⁰ Alleweldt R, *Bundesverfassungsgericht und Fachgerichtbarkeitsbarkeit*, Tübingen: Mohr Siebek, 2006, S. 232.

³¹

subjects of fundamental rights. Nonetheless, it's crucial to acknowledge that constitutional rights may extend to legal entities under public law if these rights fall within the scope of their legal mandate.³²

German legislation also specifies the entity authorized to file an individual constitutional claim. Article 90 of the federal law "on the Constitutional Court" stipulates that everyone, including both natural and legal persons, retains the right to appeal to the Constitutional Court. Thus, the term "everyone"³³ encompasses individuals and legal entities alike for the purposes of this provision.

It's worth noting that German legislation makes a distinction between citizens of the state and stateless individuals. Consequently, a stateless person can only bring a claim to the Constitutional Court regarding rights applicable to them as a subject of those rights.³⁴

Regarding legal entities, Article 19(3) of the German Basic Law specifies that legal entities can only possess rights that, by their nature, can be extended to legal entities.³⁵

Legal entities under Public Law generally do not have the right to appeal to the Constitutional Court under German legislation. However, there are exceptions, particularly for entities such as universities, churches, religious associations, and broadcasters. Each of these entities retains the right to appeal to the Constitutional Court in instances where their rights and freedoms, as outlined by the Constitution, are violated.³⁶

4.2. Eligibility Criteria for an Individual Constitutional Claim

Under Article 39, subparagraph "A" of the Organic Law on the Constitutional Court of Georgia, citizens of Georgia, as well as other natural persons and legal entities, possess the right to approach the Constitutional Court if they believe their rights and freedoms, as recognized by the second chapter of the Constitution of Georgia, have been or may be violated. This provision indicates that individuals can lodge a claim with the Constitutional Court solely to protect their rights in cases where a violation has occurred or there is a foreseeable risk of such violation.

³² Frenz, Handbuch Europarecht, Heidelberg: Springer, 2009, S. 92.

³³ Umbach D, Clemens T, Dollinger F-W, BVerfGG Kommentar, 2. Auflage, Heidelberg, 2005, S. 17.

³⁴ Robbers G, Verfassungsprozessuale Probleme in der öffentlich-rechtlichen Arbeit, Bd. 133, 2. Auflage, München, 2005, S. 9.

³⁵ Klein E, Grundrechtliche Schutzpflicht des Staates, Mainz, 1989, S. 948.

³⁶ Umbach D, Clemens T, Dollinger F-W, BVerfGG Kommentar, 2. Auflage, Heidelberg, 2005, S. 41-44.

Georgian legislation delineates specific criteria that must be met for a constitutional claim to be considered valid for review by the Constitutional Court. These requirements include submission by an authorized entity, the claim's object being a normative act, the claim having a valid basis, and being substantiated.

Article 31¹ of the Organic Law of Georgia "on the Constitutional Court" delineates the formal requirements essential for the acceptance of a constitutional claim for substantive consideration. Similarly, Article 31³ of the same law outlines the criteria for rejecting a constitutional claim.

These provisions underscore the importance of strict adherence to legislative requirements for individuals to effectively utilize the mechanism of the individual constitutional claim. It is imperative for claimants to meticulously adhere to these legislative prerequisites to ensure the consideration of their constitutional claim by the Constitutional Court.

5. Legal Consequences of Constitutional Court Decisions

The Constitutional Court stands as the singular state institution empowered to invalidate governmental decisions contrary to the principles of democracy and the rule of law. Consequently, the decisions rendered by the Constitutional Court carry significant weight, akin to that of the Constitution itself. These decisions play a crucial role in safeguarding the Constitution from unconstitutional legislation by deeming such laws or parts thereof unconstitutional.³⁷

As per Article 60(5) of the Constitution of Georgia, "the decision of the Constitutional Court is final. An act or part of it deemed unconstitutional loses its legal validity from the moment the relevant decision is published by the Constitutional Court, unless the decision specifies another, later time limit for the act or part thereof to lose its legal validity." This implies that the legal ramifications of Constitutional Court decisions extend across the entire territory of Georgia, and compliance with these decisions is mandatory.³⁸

In essence, the decisions of the Constitutional Court carry an irrefutable legal force and cannot be circumvented. They represent the ultimate authority in matters concerning the

³⁷ Nakashidze, M., "Problems of Enforcement of the Decision of the Constitutional Court of Georgia," Justice, no. 1 (2009), p. 136.

³⁸ Benidze, O., "Enforcement of Decisions of the Constitutional Court of Georgia," Human and Constitution, no. 2 (1997), p. 16.

interpretation and application of constitutional principles within the legal framework of Georgia.³⁹

According to the established practice of the Constitutional Court of Georgia, the Court is exclusively authorized to nullify the contested norm in its entirety and/or any part of its normative content; however, it cannot establish new regulations, broaden the scope of the contested norm, and so forth. Thus, the Constitutional Court's decision is limited to recognizing any aspect of the contested norm as unconstitutional and subsequently nullifying it.⁴⁰

"The Constitutional Court possesses solely the authority to annul unconstitutional provisions, thereby eliminating legal backing for rules that infringe upon human rights and freedoms. The Court's jurisdiction does not extend to instituting alternative constitutional regulations in place of invalidated legal norms."⁴¹

The aforementioned legal consequences of Constitutional Court decisions also apply when an individual constitutional claim is upheld. However, it's crucial to note that the recognition of a law or other normative acts as unconstitutional does not automatically invalidate previously issued judgments and decisions by the courts based on those acts.⁴²

Article 20 of the Organic Law of Georgia on the Constitutional Court of Georgia specifies that "the recognition of a law or other normative act as unconstitutional does not entail the annulment of previously issued court judgments and decisions based on this act; it only leads to the suspension of their execution in accordance with procedural legislation." Therefore, it's evident that Constitutional Court decisions do not have retroactive force.

To effectively uphold the binding principle of Constitutional Court decisions, it is essential to have efficient mechanisms for enforcing these decisions. Addressing issues related to the

³⁹ Zoidze, B., "Terms of Enforcement of the Constitutional Court's Decision (General Review and Current Situation in Georgia)," *Man and Constitution*, no. 4 (2004), p. 62.

⁴⁰ Constitutional Court of Georgia, Decision No. 3/6/642 of November 10, 2017, in the case "Citizen of Georgia Lali Lazarashvili v. Parliament of Georgia," II-22.

⁴¹ Constitutional Court of Georgia, Decision No. 3/6/642 of November 10, 2017, in the case "Citizen of Georgia Lali Lazarashvili v. Parliament of Georgia," II-22.

⁴² Benidze, O., "Enforcement of Decisions of the Constitutional Court of Georgia," *Human and Constitution*, no. 2 (1997), p. 17.

enforcement of Constitutional Court decisions strengthens the supremacy of the Constitution even further.⁴³

To enhance the effectiveness of constitutional control and to ensure that its legal consequences are more focused on the protection of human rights and freedoms, thereby upholding the supremacy of the Constitution, it is advisable to refine and develop Georgia's legislation. Specifically, introducing provisions in the legislation to enforce the decisions of the Constitutional Court would be beneficial. For instance, similar to German legislation, granting the Constitutional Court the authority to specify the methods of enforcing court decisions and designate the responsible entity for enforcement would be advantageous in Georgia.⁴⁴ We believe that such provisions would enhance the effectiveness of enforcing decisions made by the Constitutional Court, thereby further strengthening the rule of law and constitutional governance in Georgia.

6. Analysis of the Practice of the Constitutional Court of Georgia

The application of individual constitutional claims to the Constitutional Court of Georgia showcases a diverse array of practices. Therefore, it is prudent to delve into several recent decisions of the Constitutional Court within the scope of this article, as they offer insightful explanations regarding the protection of human rights and freedoms.

Of particular interest is the case involving the Public Defender of Georgia versus the Parliament of Georgia.⁴⁵ In this dispute, the Constitutional Court deemed the normative content of the first paragraph of Article 21 of the Constitution of Georgia and Article 8 of the Georgian law "on assemblies and demonstrations" unconstitutional. These provisions mandated that the executive body of the municipality be notified no later than five days before an assembly or demonstration takes place.

Regarding this case, the court highlighted that the first paragraph of Article 21 of the Constitution of Georgia establishes constitutional guarantees for the exercise of the fundamental right to freedom of assembly, enabling peaceful and public gatherings of people. As per this provision, all individuals, except those belonging to the Defense Forces or the entity

⁴³ Demetrashvili, A., "Guarantees of Protection of Constitutional Rights of the Constitutional Court," *Man and Constitution*, no. 4 (2000), p. 206.

⁴⁴ Gabunia, E., "'Real' Control in the Constitutional Justice System of Georgia," *Journal of Constitutional Law*, no. 3 (2019), p. 61.

⁴⁵ Decision of the Constitutional Court of Georgia, No. 3/3/1635 of December 14, 2023, in the case "Public Defender of Georgia vs. the Parliament of Georgia."

responsible for safeguarding state or public security, have the right to assemble publicly and peacefully, without the need for prior authorization or being armed. Consequently, the Constitution ensures that individuals have the opportunity to publicly express their sentiments and opinions.⁴⁶

In relation to the aforementioned case, the Constitutional Court of Georgia acknowledged the significance of the public's legitimate goals outlined in the disputed norm. It deliberated on the necessity of the regulation prescribed by the contested norm. However, the Court concluded that the established restriction compromised the fair balance between limited and protected interests, thus failing to ensure the effective enjoyment of the fundamental right.

Furthermore, a violation of the right to access public information, as stipulated in Article 18 of the Constitution of Georgia, was determined by the Constitutional Court of Georgia on April 27, 2018, in case №1/3/1243, involving "citizen of Georgia Giorgi Kraveishvili against the Parliament of Georgia."

In the mentioned case, the Constitutional Court's delineation regarding the constitutional grounds for the right to access public information is noteworthy. The Court's definition includes:

- Information held by the Science Foundation, being funded from the state budget and established to fulfill state tasks, is deemed as official records.⁴⁷
- The identity of an independent expert constitutes public information and should be accessible to interested parties.⁴⁸
- Concealing an expert's identity is regarded as a restriction on access to public information.⁴⁹
- Expert assessments play a pivotal role in fostering public confidence in administrative decision-making processes and ensuring transparency in competitions involving participants. Consequently, restricting access to information about the expert's identity for competition participants violates their legitimate interests.⁵⁰

⁴⁶ Ibid, II – 3.

⁴⁷ Decision of the Constitutional Court of Georgia, No. 1/3/1243 of April 27, 2018, in the case "Citizen of Georgia Giorgi Kraveishvili v. Parliament of Georgia.", II-13.

⁴⁸ Ibid, II – 14.

⁴⁹ Ibid, II – 15.

⁵⁰ Ibid, II – 17.

Based on these points, the Constitutional Court deemed the contested norm unconstitutional, stating that it unjustly curtails the right to access information safeguarded in the public institution as defined by the Constitution of Georgia.

Conclusion

In conclusion, it can be affirmed that the institution of individual constitutional claims within the Constitutional Court has functioned effectively. This is evident from the decisions rendered by the Constitutional Court, which have consistently prevented the existence of unconstitutional normative acts in the country. Thus, it is evident that the Constitutional Court of Georgia has played an indispensable role in safeguarding constitutional rights and freedoms.

However, it is worth noting that to enhance the effectiveness of constitutional control, it would be beneficial for the Constitutional Court's jurisdiction to extend to the examination of the constitutionality of decisions made by judicial bodies. Specifically, granting the Constitutional Court the authority to review decisions rendered by lower courts would be advantageous.

Furthermore, it is advisable to enhance and refine Georgia's legislation concerning the enforcement of decisions issued by the Constitutional Court. Specifically, there is a need to introduce provisions in the legislation that guarantee the execution of Constitutional Court decisions. This step would contribute to a greater emphasis on the protection of human rights and freedoms within the constitutional control mechanism, consequently reinforcing the supremacy of the Constitution.