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PRACTICAL ASPECTS OF THE HIERARCHY OF CONSTITUTIONAL RIGHTS

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ABSTRACT*

Historically, the development of the protection of human rights has been never consistent.¹ Despite the fact that states acknowledged the exceptional importance of human rights, they were not enshrined in international law until the end of the Second World War.

Once fundamental rights were granted full legal standing, an individual was enabled to turn to a court for protection of his or her own rights. The main essence and meaning of human was hence clarified – protection of individuals from unjustifiable state interference. Consequently, positive and negative obligations were imposed upon the states.

The preamble of the 1948 Universal Declaration of Human Rights emphasized the universal, equal and non-derogable nature of human rights. Hence, the document excludes any hierarchical arrangement of the rights. However, over the years the conflict between fundamental rights has gained a considerable spotlight. This paper studies the question of granting different weight and importance to various rights and their interrelation to the development of the hierarchy of rights.

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¹ The Magna Carta or “Great Charter” was one of the first document containing certain legal rights. After that, Habeas Corpus and Bill of Rights expanded sphere of human rights. Universal nature of human rights was first acknowledged in 1776 by the Virginia Declaration of Rights in the USA, while in Europe they were acknowledged by the Declaration of the Rights of Man and of the Citizen adopted in 1789 in France.

INTRODUCTION

The protection of human rights and freedoms represents the highest value and accomplishment of the modern world. In particular, the existence of rights and freedoms serves as protection for an individual from unjustifiable state interference while also creating a favorable environment and legislation for fundamental rights to be exercised. Consequently, a main idea of a democratic state based on the rule of law is fully founded on a guarantee of exercising human rights effectively and comprehensively.²

There is general agreement that each human right and freedom granted to an individual is of equal importance and it is impossible to prioritize one over the rest.³ However, the expansion of the catalogue of human rights coupled with the broad interpretation of existing legal documents have generated conflicts between the rights.⁴

This paper illustrates constitutional dilemmas related to the hierarchy of rights and the granting of different legal weights to various rights. The paper maintains that despite the widespread opinion that instruments for the protection of human rights give equal importance to fundamental rights and dismiss the idea of a hierarchical arrangement,⁵ a certain differentiation still exists.

The first chapter of the paper refers to the classification of rights and its relation to the development of an idea of the hierarchy of human rights. The second chapter suggests that despite the fact that courts do not intend to show any preference for one right over another, through their practice a degree of preference can be observed. The third chapter discusses a mechanism for solving the conflict between rights, while the conclusion summarizes the main points of the conducted case analysis.

2 Eremadze, *Balancing Interests in Democratic Society*, 2013, p.14 (ერემაძე, *ინტერესთა დაბალანსება დემოკრატიულ საზოგადოებაში*, 2013, გვ.14).

3 Bernard Williams, *Moral Luck: Philosophical Papers 1973 – 1980*, Reprinted (Cambridge: Cambridge Univ. Press, 1999), 14. Raymond Plant, "Religion, Identity and Freedom of Expression," *Res Publica* (13564765) 17, no. 1 (February, 2011): 16-17.

4 Bribosia, Rorive, *In search of a balance between the right to equality and other fundamental rights*, 2010, p. 14.

5 Bernard Williams, *Moral Luck: Philosophical Papers 1973 - 1980*, Reprinted (Cambridge: Cambridge Univ. Press, 1999), 14. Raymond Plant, "Religion, Identity and Freedom of Expression," *Res Publica* (13564765) 17, no. 1 (February, 2011): 16-17.

1. CLASSIFICATION OF FUNDAMENTAL HUMAN RIGHTS

1.1. Functional Division of Rights

Taking into account various principles for classification, basic rights can be also divided according to their functions and importance. Therefore, the subjective and objective position of rights can be differentiated.

The subjective rights regulate relations between an individual and a state.⁶ The German legal doctrine distinguishes three classic functions of fundamental rights: defensive, beneficiary and participatory.⁷

Status Negativus (defensive): this function obliges a state not to violate an individual's fundamental rights, as well as, to provide a legal remedy, in case such violation still occurs. These rights include, for example: right to life, right to development, freedom of speech, freedom of assembly, etc. It should be noted that such rights are also grouped with the rights to freedom.

Status Positivus (beneficiary): this function obligates a state to actively implement certain measures, for instance, to ensure access to education for all its citizens. All social rights contain this function.

Status Aktivus (participatory): this function empowers an individual to participate in the decision-making process at a national level.⁸ The rights that fall within this function are civil and political rights, such as participation in elections.

As for the objective position, fundamental rights oblige a state to protect legal institutions.⁹ For instance, Georgia considers it unacceptable to abolish the institution of private property, and consequently, it must ensure its institutional strengthening.

According to the classification described above, the rights are being differentiated not according to the levels of protection they provide but according to their functions, which allows a better demonstration their essential tasks. Consequently, such a division does not aim at establishing any kind of hierarchy. Therefore, it does not contradict the idea of the equal importance of rights.

6 Dreier, Subjektiv-rechtliche und Objektiv-rechtliche Grundrechtsgehalte, Jura 1994, S. 505 ff.; ders., in: Grundgesetz-Kommentar, Dreier (Hrsg.), 2. Aufl., 2004, S. 91f., 98.

7 Comment of Constitution of Georgia (საქართველოს კონსტიტუციის კომენტარი); 2013, pg. 15. See: http://www.library.court.ge/upload/Constitution_Commentary_Human_Rights.pdf (Last seen on 09/10/2017).

8 BVerfGE 8, 104.

9 BVerfGE 7,198; Böckenförde, Grundrechte als Grundsatznormen, in: ders., Staat, Verfassung, Demokratie, 1991, S. 159 ff.; Jarass, Grundrechte als Wertentscheidungen bzw. Objektiv-rechtliche Prinzipien in der Rechtssprechung des Bundesverfassungsgerichts, in: AoeR 110 (1985), S. 363 ff.

1.2. Differentiating Rights as Absolute Rights and Rights Subject to State Interference

Despite the long established opinion about the equal importance of rights, they can be differentiated and grouped in a) absolute rights and b) those which are subject to interference (relative rights).

Restricting or derogating inviolable or absolute rights is not permissible even during war or state of emergency.¹⁰ Therefore, a state cannot interfere with the prohibition of torture, slavery, inhuman or degrading treatment/punishment. Equally, a state cannot intervene in the right not to be held guilty of any offence which did not constitute a criminal offence at the time when it was committed and the right not to be imposed a heavier penalty (severe punishment) than the one which was applicable at the time the crime was committed.¹¹

It should be noted that the Georgian Constitution and the Georgian Constitutional Court's case law, both appear to share the aforementioned approach. According to the established standard, respect for a human dignity is considered to be a main value for a state, which cannot be restricted or deprived.¹² Through its decisions, the Constitutional Court of Georgia has emphasized the absolute nature of the doctrine of prohibiting multiple punishment for the same crime. However, the Court has indicated exceptional cases, such as "when proceedings can be reopened because of new or newly discovered evidences or when serious shortcomings are revealed during the proceedings which could have influenced case proceedings and the outcomes, and which provides the ground for new trial under a clear, foreseeable and priorly adopted legislation. However, apart from the above-mentioned exceptions, the principle of prohibition against someone being tried twice for the same offence (*non bis in idem*) is an absolute and imperative constitutional obligation".¹³ Rights which are subject to state interference, however, can be restricted in certain circumstances, either on the ground established by law and/or if such a restriction should be necessary in a democratic society.¹⁴ For example, limitations on the freedom of speech or freedom of expression.

According to the European Court of Human Rights (hereinafter "ECtHR"), taking into account each particular case, interference in fundamental rights is allowed only when it is exercised in accordance with the law and when such restriction is necessary to protect public and/or private in-

10 European Convention of Human Rights, Article 15; ECtHR, application no. 14038/88, *Soering v The United Kingdom*, judgment of 07/07/1989; ECtHR, application no. 12850/87, *Tomas v France*, judgment of 27/08/1992; ECtHR, application no. 30873/96, *Egmez v Cyprus*, judgment of 21/12/2000; *Albert and Le Compte v Belgium*, application no. №7299/75; 7496/76, judgment of 10/02/1983.

11 European Convention of Human Rights, Articles 3, 4 and 7.

12 №2/2-389 Ruling of the Constitutional Court of Georgia (26 October, 2007) on a case, *Citizen Maia Natadze and others v Parliament of Georgia and President of Georgia*, II-30.

13 №3/1/608,609 Ruling of the Constitutional Court of Georgia (29 September, 2015) on the case, Constitutional Complaint Filed by the Supreme Court of Georgia on Constitutionality on 4th part of the Article 306 of the Code of Criminal Procedure and Complaint filed by the Supreme Court of Georgia on constitutionality of the paragraph "g" of the Article 297 of the Code of Criminal Procedure of Georgia, II-36.

14 Cherednychenko, *Fundamental Rights, Contract Law and the Protection of the Weaker Party: A Comparative Analysis of the Constitutionalisation of Contract Law, with Emphasis on Risky Financial Transactions*, 2007, p. 241.

terests.¹⁵ The European Convention of Human Rights directly specifies under what circumstances public authorities can restrict such rights, it can be: national security, public safety, the economic well-being of the country, prevention of disorder or crime, protection of health or morals, and protection of the rights and freedoms of others.¹⁶

Standard established by the Constitutional Court of Georgia is also worth noting: “one of the important conditions for the stability of a modern state is to determine priorities among public and private interests accurately and fairly, and to create a reasonably balanced system for a state’s and individual’s relations. This, in the first place, is expressed in adequate legislative definition of content and scope of each specific right”.¹⁷

It should be noted that, differentiation cannot be excluded even among the rights subject to interference, however, this is not the focus of the present paper.

2. DIFFERENT CONSTITUTIONAL WEIGHTS OF FUNDAMENTAL HUMAN RIGHTS

Despite the classification of rights described above, there is no common concept of the hierarchy of human rights. “All rights are inter-related, indivisible and have equal status. One group of rights is not more important than another and all rights — whether civil, political, economic, social or cultural — must be equally respected.”¹⁸

Although the division of rights according to their functions does not oppose the idea of the equal importance of fundamental rights, when classifying them as absolute rights and those which are subject to state interference, the differential approach is obvious. Because of the essence of a right, in the case of conflict, some rights are granted more importance.

While it is true that no state directly acknowledges a hierarchy of rights, when weighing them against other types of rights, it is apparent from various states’ courts practices that more importance is given to absolute rights.

In this respect, the cases concerning right to dignity are significant. According to the German doctrine, human dignity is inviolable and at the same time it is the basis of the right to develop-

15 ECtHR, application no. 21318/93, *Ochensberger v. Austria*, judgment of 2/09/1994.

16 European Convention of Human Rights, Article 8-11.

17 №1/2/384 ruling of the Constitutional Court of Georgia on a case, *Georgian Citizens, David Jimshelishvili, Tariel Gvetadze and Neli Dalalishvili v Parliament of Georgia II-5(5)*.

18 Desai, *A Rights-Based Preventative Approach for Psychosocial Well-being in Childhood, Children’s Well-being: Indicators and Research*, 2010, p. 43.

ment.¹⁹ The German standard established by the Constitutional Court of Germany implies that dignity has the highest constitutional value and all other norms should be interpreted in harmony with it. Although this position has caused legal debates, it still remains dominant.²⁰

The Constitutional Court of Georgia also emphasizes the importance of the protection of dignity and prohibition of torture. According to the interpretation presented put forward by the court: “Constitutional prohibition of torture, inhumane, cruel and degrading treatment or punishment are individuals’ absolute rights which means that the Constitution unconditionally excludes intervention in these rights. It is notable, that this prohibition applies both in war and emergency times. Consequently, there are no legitimate aims and insurmountable interests, no matter how important, whether it is defense of territorial integrity or sovereignty of the state, fight against terrorism or national security and etc., which could have justified interference in these rights.”²¹

Thus, interference in absolute rights is unconditionally unjustifiable. However, it should be noted that absolute rights are not exempted from judicial assessment, in case of conflicting rights, it does not automatically ascertain that violation of absolute rights took place.²² The court should determine and assess the intervention in a protected sphere for each specific case. According to the standard established by the ECtHR, to rule an act as a violation of Article 3 of the Convention, it is necessary to determine the “minimum level of severity,”²³ which means that the content, form, duration and circumstances of the treatment should all be assessed.²⁴

On the other hand, it is interesting how the social-political environment of the country has an impact on the assessment of the violation of a right. In some cases, a specific country’s courts may assess the protection of public interests differently, depending the level of necessity.

In this respect, so-called “Islamic headscarf cases” deserve attention. While the ECtHR considers it acceptable for a state to impose restrictions on wearing a hijab,²⁵ the Federal Constitutional Court of Germany²⁶ and the US Supreme Court believe this approach unjustifiable.²⁷

19 Grundgesetz, BGBl. I Art. 1(1) und Art. 2(1)

20 Barroso, Here, There, And Everywhere: Human Dignity in Contemporary Law and in the Transnational Discourse, Boston Collage International and Comparative Law Review (Vol. 35:331), p. 338, fn. 39. See: http://www.luisrobertobarroso.com.br/wp-content/uploads/2017/09/aqui_em_todo_lugar_dignidade_humana_direito_contemporaneo_discurso_transnacional_en.pdf (last seen on 17.10.2017).

21 №1/14/592 Ruling of the Constitutional Court of Georgia (24 October, 2015) on *Citizen Beka Tsikarishvili v Parliament*, I-19.

22 See cases, ECtHR, application no. 54810/00, *Jalloh v Germany*, judgment of 11/07/2006, paras. 77–83; ECtHR, application no. 20166/92, *S.W. v United Kingdom*, judgment of 22/11/1995, paras. 36 and 44; ECtHR, application no. 20190/92, *C.R. v United Kingdom*, judgment of 22/11/1995, paras. 34 and 42.

23 *Raninen v Finland* judgment of 16 December 1997, Reports of Judgments and Decisions 1997-VIII, pp. 2821-22, § 55.

24 See cases, ECtHR, application no. 14038/88, *Soering v The United Kingdom*, judgment of 07/07/1989, para. 108. ECtHR, application no. 54825/00, *Nevmerzhitsky v Ukraine*, judgment of 05/04/2005, paras. 93-99.

25 ECtHR, application no. 27058/05, *Dogru v France*, judgment of 4/12/2008; ECtHR, application no. 44774/98, *Leyla Sahin v Turkey*, judgment of 10/11/2005.

26 BVerfG, Beschluss des Ersten Senats vom 27. January 2015. See: https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2015/01/rs20150127_1bvr047110.html;jsessionid=CCFF242F94FFE23D1AA2EDD9BD04281A.2_cid370 (Last seen on: 10/12/2017).

27 See: Supreme Court of the United States, *Equal Employment Opportunity Commission v Abercrombie & Fitch Stores, Inc.*, 01/06/2015. See: https://www.supremecourt.gov/opinions/14pdf/14-86_p86b.pdf (Last seen on: 17/10/2017).

On the other hand, in the ECtHR cases *Dogru v France* and *Kervanci v France*,²⁸ concerning the students' expulsion from school for wearing headscarves during sports classes, the court noted that the wearing of a headscarf during sports classes did not comply with the health and safety rules and that the penalty imposed was merely motivated by the students' refusal to comply with the internal rules of a school, and not by religious convictions. Furthermore, disciplinary measures taken against the students fully complied with the obligation to strike a balance between different interests and, therefore, was proportionate to the aim pursued.

By contrast, according to a decision passed in 2015, the German Constitutional Court indicated that wearing Islamic headscarf is a religious expression of an individual rather than a religious expression of an individual. Moreover, it observed that such an act does not contradict the education aims of the state, nor its neutrality.²⁹ The US Supreme Court shares the same approach, to an extent. It observes that refusing to employ an individual who wears a headscarf of religious significance constitutes nothing but discrimination on religious grounds.³⁰

There are cases where the level of a right's protection depends on the subject of such protection. In this regard, the case law of the US Supreme Court concerning the death penalty is worth analyzing in light of the VIII Amendment of the US Constitution.³¹ In the case *Atkins v Virginia*,³² the Court based its decision on a 1989 judgment and recognized the death penalty of persons with psychosocial needs as unconstitutional.³³ The Supreme Court emphasized the tendency that a significant number of states supported that death penalty was not a suitable punishment for individuals with psychosocial needs and was morally unjustifiable. Besides, it was also noted that society at large was less keen to denounce offences committed by such individuals.³⁴

The US Supreme Court also held that the death penalty for crimes committed by offenders under the age 18 was a cruel and degrading punishment. In the case *Roper v Simmons*, like in the case of *Atkins v Virginia*, the Court emphasized society's more lenient attitude toward crimes committed by juveniles compared to those committed by adults.³⁵

28 ECtHR, application no. 31645/04, *Kervanci v France*, judgment of 4 December 2008.

29 BVerfG, Beschluss des Ersten Senats vom 27. Januar 2015. See Begadze, Secularism: Framework of Relations between State and Church, in *Constitutional Law Review*: <http://www.constcourt.ge/ge/publications/journals> (Last seen on: 09/10/2017) (ბეგაძე, სეკულარობი: სახელმწიფოსა და ეკლესიას შორის ურთიერთობის ჩარჩო, საკონსტიტუციო სასამართლოს მიმოხილვა; გვ. X, 2016; 119-120).

30 Supreme Court of the United States, *Equal Employment Opportunity Commission v Abercrombie & Fitch Stores, Inc.*, 01/06/2015, pp.3-7.

31 According to the 8th Amendment of the Constitution, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted".

32 Supreme Court of the United States, *Atkins v Virginia*, No. 00-8452, June 20, 2002. See: <https://www.law.cornell.edu/supct/html/00-8452.ZO.html> (Last seen on: 18/10/2017)

33 Supreme Court of the United States, *Penry v Lynaugh*, No. 87-6177, June 26, 1989. See: <https://www.law.cornell.edu/supremecourt/text/492/302> (Last seen on: 18/10/2017). The Supreme Court ruled that execution of individuals with psychosocial needs did not violate the 8th amendment, rather it was a factor which mitigated punishment.

34 Supreme Court of the United States, *Atkins v. Virginia*, 8-12.

35 Supreme Court of the United States, *Roper v Simmons*, No. 03-633, March 1, 2005. See: <http://caselaw.findlaw.com/us-supreme-court/543/551.html> (Last seen on: 18/10/2017).

Thus, it can be concluded that while competing the rights, if there is unjustifiable interference in the absolute right, the latter unconditionally outweighs.

3. BALANCING INTERESTS AS A MECHANISM FOR SOLVING A CONFLICT

Considering the fact that every state examines each particular case based on its established practice within its cultural, political and social context, agreement on a common hierarchical arrangement is, in fact, impossible. Consequently, one right's priority over the other can be determined through examining and analyzing each specific case.

Some scholars believe that the principle of proportionality is the way to solve the issue, which is used to regulate existing conflict between the rights and which in turn tries to avoid "sacrificing" one right at the expense of another.³⁶ Others think that the principle of proportionality should be used within a certain framework that enables "affording a priority to the right which is considered to be of a greater value".³⁷ Although they point out that interests should be balanced, they also note that "balancing raises more questions than it provides answers."³⁸

According to the universally agreed opinion, the principle of proportionality is considered as a measuring instrument for assessing the restrictions to a constitutional right. Therefore, a legislative regulation restricting a right should be a necessary and genuinely meet objectives of general interest. At the same time, the intensity of the restriction should be proportionate to such a legitimate (public) aim. Achieving such a goal at the expense of the unreasonable restriction of the right should be unacceptable.³⁹

It should be noted that the legitimate aim of a restriction, to some extent, is also determined by the text of the legislation. For instance, the right to assembly and manifestation shall be subject only to such limitations as are prescribed by law and are necessary, in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.⁴⁰

36 Van Drooghenbroeck, S., *Conflicts entre droits fondamentaux, pondération des intérêts: fausses pistes (?) et vrais problèmes*, Les droits de la personnalité, op. cit., pp. 299 ff., No 35.

37 De Schutter, Tulkens, *The European Court of Human Rights as a Pragmatic Institution* (June 6, 2014), in E. Brems (ed.), *Conflicts between Fundamental Rights*, Intersentia, 2008, p.17. Available at SSRN: <https://ssrn.com/abstract=2446909> (Last seen on: 03/02/2019)

38 Ibid, p.21. See: Bribosia, Rorive, supra note 2, pp. 23-24.

39 №3/1/512 Ruling of the Constitutional Court of Georgia (26 June 2012) on a case, *Citizen of Denmark Heike Cronqvist v Parliament of Georgia*; II-60; Charter of Fundamental Rights of the European Union, Art. 52.1; Flores, *Proportionality in Constitutional and Human Rights Interpretation*, Georgetown University Law Center, 2013, pp. 83-113.

40 European Convention of Human Rights, Article 11; Constitution of Georgia, Article 25.

In this regard, this 2011 ruling of the Constitutional Court of Georgia is interesting. It states that: “when a conflict between rights is inevitable, for instance, when a number of participants of the assembly or manifestation makes it impossible for others to move freely, according to the disputed norms of the Constitution, priority is given to the right protected by the Article 25 of the Constitution, as otherwise freedom of assembly and manifestation would be inaccessible to numerous participants of the assembly, who for the protection of the rights of others would be forced to refuse their right to exercise the right to assembly. Consequently, the right to assembly (manifestation) should be given priority when it is impossible to exercise it without restriction of the others’ rights and when a blocking a roadway demonstrates an objective necessity.”⁴¹

The approach used by the Federal Constitutional Court of Germany regarding conflict of rights is also worth mentioning. In the case of Erich Lüth,⁴² the applicant urged owners of German cinemas and film distributors, as well as the public, to boycott a film directed by a German film director. The Constitutional Court found that Lüth’s call for a boycott, taking into consideration his motives and aims, was protected by freedom of expression and was morally justifiable.

The same approach is shared by the ECtHR. In the case of *Editions Plon v France*⁴³ the Court banned the distribution of a book containing information related to the private life of an individual. Similar decision was held in the case of *Otto-Preminger Institut v Austria*, where the ECtHR satisfied the plaintiff’s demand and banned the showing of the film in order to avoid offending of religious feelings of others under the right to expression.⁴⁴

Therefore, the optimization of values in every case of conflict of rights can only be achieved by assessing the circumstances of the case and balancing of the interests.

CONCLUSION

Based on the information presented above, it can be concluded that although a form of interference in the absolute right is not automatically exempted from a court’s assessment and it may turn into a disputable issue,⁴⁵ a state’s margin of appreciation should not be so broad as to cause the loss

41 №2/482,483,487,502 Ruling of the Constitutional Court of Georgia (18 April, 2011) on a case, *Political Union of Citizens Movement for United Georgia, Political Union of Citizens Conservative Party of Georgia, Citizens of Georgia: Zviad Dzidziguri and Kakha Kukava, Association of Young Lawyers of Georgia, Citizens of Georgia: Dachi Tsaguria and Jaba Jishkariani, Public Defender of Georgia v Parliament of Georgia*, II-38.

42 BVerfGE 7, 198.

43 ECtHR, application no. 58148/00, *Editions Plon v France*, judgment of 18 May 2004.

44 ECtHR, application no. 13470/87, *Otto-Preminger Institut v Austria*, judgment of 20 September 1994, para. 48.

45 See: ECtHR, application no. 54810/00, *Jalloh v Germany*, judgment of 11/07/2006, paras.77–83; ECtHR, application no. 20166/92, *S.W. v United Kingdom*, judgment of 22/11/1995, paras. 36 and 44; ECtHR, application no. 20190/92, *C.R. v United Kingdom*, judgment of 22/11/1995, paras. 34 and 42.

of the absoluteness of a right. Nevertheless, which right should be given priority is a decision to be adopted by the court on the basis of its assessment and inner belief. However, it should be noted that the simultaneous protection of two fundamental rights of equal importance is simply impossible.⁴⁶ The presence of one right causes full or/and partial disappearance of another.⁴⁷

On the other hand, granting priority or restriction to a group of rights, is indeed necessary for maintaining a democratic society. A modern state permits the possibility of the limitation of an individual's freedom if the priorities between private and public interests are correctly and justly balanced. Consequently, a balance achieved in these circumstances is not considered to be unfair. Although, it should be taken into account that, while there is an absolute right on the one hand, and a right which is subject to proportionate interference on the other, the former one always outweighs the latter. Hence, when a conflict of rights exists, an absolute right is always granted with a greater value compared to other rights.

⁴⁶ №3/4/550 Ruling of the Constitutional Court of Georgia (17 October, 2017) on a case: *Citizen of Georgia Nodar Dvali v Parliament of Georgia*; Constitutional Court of Georgia ruled in favor of one applicant's public interest against another's legally the same public interest.

⁴⁷ Kayacan, *How to Resolve Conflicts Between Fundamental Constitutional Rights*, Saar Blueprints, 2016, p.5