



## THE RIGHT OF PROPERTY IN GEORGIAN LEGISLATION

Nino Kharitonashvili   
Caucasian University 

**Contextualization:** This article addresses the constitutional protection of property rights in Georgia, both in its historical and modern contexts, while also analyzing the cultural peculiarities that influence property regulation rules. Key aspects include restrictions on agricultural land ownership by foreigners, violations of property rights and their respective protections, the order of property acquisition, and issues related to the disposal of property owned by children.

**Objective:** The article aims to examine problematic issues related to the defense standards for property owners and bona fide purchasers. Another critical point is the extent of state intervention in property rights, including the prohibition of mortgages and their impacts on the economic situation of the population. The research seeks to answer: How do Georgia's legal regulations balance property rights with public and economic interests?

**Method:** A mixed-methodological approach was used, combining quantitative, qualitative, historical, and general methods, as well as comparative analysis. International practices, local legislation, and judicial decisions were analyzed to contextualize property regulations and their practical applications.

**Results:** The study reveals that, although the Constitution of Georgia protects property rights, legal regulations often weaken this protection. Frequent cases of fraudulent alienation, restrictions on agricultural land ownership by foreigners, and limitations on the disposal of children's property highlight systemic weaknesses. Furthermore, the prohibition of mortgages, while implemented to protect citizens, has led to adverse economic consequences, pointing to the need for improvements in public policies and market regulation.

**Keywords:** Property Right, Ownership; Mortgage; Inheritance.

## O DIREITO DE PROPRIEDADE NA LEGISLAÇÃO GEORGIANA

**Contextualização:** Este artigo aborda a proteção constitucional do direito de propriedade na Geórgia, tanto em seu contexto histórico quanto moderno, analisando também as peculiaridades culturais que influenciam as regras de regulação da propriedade. Destacam-se aspectos como restrições à propriedade de terras agrícolas por estrangeiros, violações de direitos de propriedade e suas respectivas proteções, a ordem de aquisição de propriedade e questões relacionadas à alienação de bens pertencentes a crianças.

**Objetivo:** O artigo tem como objetivo examinar questões problemáticas relacionadas aos padrões de defesa dos proprietários e compradores de boa-fé. Outro ponto crítico é o alcance da intervenção estatal no direito de propriedade, incluindo a proibição de hipotecas e seus impactos na situação econômica da população. A pesquisa procura responder: Como as regulações legais da Geórgia equilibram o direito à propriedade com os interesses públicos e econômicos?

**Metodologia:** Utilizou-se uma abordagem metodológica mista, combinando métodos quantitativos, qualitativos, históricos e gerais, bem como análise comparativa. Foram analisadas práticas internacionais, legislações locais e decisões judiciais para contextualizar as normas de propriedade e suas aplicações práticas.

**Resultados:** O estudo revela que, embora a Constituição da Geórgia proteja o direito à propriedade, as regulações jurídicas muitas vezes enfraquecem essa proteção. Casos frequentes de alienação fraudulenta, restrições à propriedade de terras agrícolas por estrangeiros e limitações na alienação de bens de crianças destacam fragilidades no sistema. Além disso, a proibição de hipotecas, embora tenha sido implementada para proteger os cidadãos, gerou consequências econômicas adversas, apontando para a necessidade de melhorias nas políticas públicas e na regulamentação de mercado.

**Keywords:** Direito de propriedade; Posse; Hipoteca; Herança.

## EL DERECHO DE PROPIEDAD EN LA LEGISLACIÓN GEORGIANA

**Contextualización:** Este artículo aborda la protección constitucional del derecho de propiedad en Georgia, tanto en su contexto histórico como moderno, analizando también las peculiaridades culturales que influyen en las reglas de regulación de la propiedad. Se destacan aspectos como las restricciones a la propiedad de tierras agrícolas por extranjeros, violaciones de derechos de propiedad y sus respectivas protecciones, el orden de adquisición de propiedad y cuestiones relacionadas con la enajenación de bienes pertenecientes a menores.

**Objetivo:** El artículo tiene como objetivo examinar cuestiones problemáticas relacionadas con los estándares de defensa de los propietarios y los compradores de buena fe. Otro punto crítico es el alcance de la intervención estatal en el derecho de propiedad, incluyendo la prohibición de hipotecas y sus impactos en la situación económica de la población. La investigación busca responder: ¿Cómo equilibran las regulaciones legales de Georgia el derecho de propiedad con los intereses públicos y económicos?

**Método:** Se utilizó un enfoque metodológico mixto, combinando métodos cuantitativos, cualitativos, históricos y generales, además de análisis comparativo. Se analizaron prácticas internacionales, legislaciones locales y decisiones judiciales para contextualizar las normas de propiedad y sus aplicaciones prácticas.

**Resultados:** El estudio revela que, aunque la Constitución de Georgia protege el derecho de propiedad, las regulaciones legales a menudo debilitan esta protección. Los casos frecuentes de enajenación fraudulenta, las restricciones a la propiedad de tierras agrícolas por extranjeros y las limitaciones en la enajenación de bienes de menores destacan las debilidades del sistema. Además, la prohibición de hipotecas, aunque se implementó para proteger a los ciudadanos, ha generado consecuencias económicas adversas, lo que señala la necesidad de mejoras en las políticas públicas y en la regulación del mercado.

**Palabras clave:** Derecho de propiedad; Posesión; Hipoteca; Herencia.

## INTRODUCTION

Historically, the constitutional protection of property rights in Georgia began within a short two-year period of independence with the constitution adopted by the Constituent Assembly of Georgia on February 21, 1921. Pursuant to the 114-e clause of the Constitution, forced expropriation of property or restriction of private initiative was able only be for state, public and cultural needs in a manner prescribed by a separate law. For confiscated property would be given an appropriate fee unless otherwise was provided by law.<sup>1</sup> It should be noted that ownership was not protected along with fundamental rights, but related to socio-economic rights and was placed in chapter 13. This was the reflection of the influence of the utilitarian theory which regards property as a positive right created instrumentally by law to achieve wider social and economic objectives.<sup>2</sup>

Since 1922, Georgia became the part of the Soviet Union and the Georgian legal culture was incorporated into the Soviet legislative space. Soviet property law has been developed to implement the Marxian thesis that political power rests in property rights. Ownership of the means of production has been denied to the individual and transferred to the state created by the revolution of 1917<sup>3</sup>. Concept Of ownership developed in Soviet law since 1936 and Formed as follows: (1) personal ownership of certain kinds of things is recognized; (2) a special customary ownership is vested in the peasant household; (3) collective farms, consumers' and producers' cooperatives, and various public organizations exercise a "socialized" ownership of their belongings; (4) certain property rights in state-owned means of production have been recognized to exist in the business enterprises administering such means of production; (5) these rights of persons, of peasant households, of collectives, cooperatives, and public organizations, and of state business enterprises are judicially protected.<sup>4</sup>;

After the collapse of the Soviet Union and the change of socio-economic formation, the next agenda of independent state of Georgia was the creation of a new legislative space, which would provide the legal norms governing private property. On August 24, 1995, the constitution of Georgia was adopted and the right to property was declared protected by Article 21. This time the right of property was protected along with the

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<sup>1</sup> The Constitution of Georgia, adopted by the Constituent Assembly of Georgia on February 21, 1921. [www.matsne.gov.ge](http://www.matsne.gov.ge)

<sup>2</sup> PANESAR, Sukhinder. Theories of private property in modern property law. **Denning Law Journal**, v. 15, n. 113-138. Available in: <https://pureportal.coventry.ac.uk/files/3991138/Theories%20of%20private%20property.pdf>

<sup>3</sup> HAZARD, John N. Soviet Property Law. **Cornell Law Review**, v. 30, n. 4, 1945. Available at: <https://scholarship.law.cornell.edu/clr/vol30/iss4/5>

<sup>4</sup> BERMAN, Harold J. Soviet property in law and in plan . **Penn Carey Law Review**, n. 324, 1948. p. 325. Available at: [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=8801&context=penn\\_law\\_review;](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=8801&context=penn_law_review;)

fundamental human rights and freedoms guaranteed by Chapter 2 of the Constitution. Although it was considered as "universal right", paragraphs 2 and 3 of the same article stipulated that it was permissible to restrict it for essential public needs in cases prescribed by law and in accordance with the established procedure. In order to avoid Soviet experience, article 6.3 of the Georgian Constitution proclaimed that the abolition of the universal right to private property is prohibited.

Later, the article protecting the right of ownership was transformed by the Constitutional Laws of October 15, 2010, October 19, 2017 and April 2, 2018, and today the right of ownership and inheritance is protected by article 19 as follows: „1. The right to own and inherit property shall be recognised and guaranteed. 2. This right may be restricted in cases defined by law and in accordance with the established procedure for the public interest. 3. The expropriation of property shall be admissible in cases of pressing social need as directly provided for by law, based on a court decision or in the case of urgent necessity established by the organic law, provided that preliminary, full and fair compensation is paid. Compensation shall be exempt from any taxes and fees<sup>5</sup>. It is clear that the legislator's discretion in this area is not unlimited and determines the possibilities of restricting this right for the public interest. The right of property and inheritance is not an absolute right and may be limited by the observance of formal and material requirements for the restriction of the right<sup>6</sup>.

The state intervention, In order to be considered constitutionally and legally justified, must meet formal and material criteria. Firstly, there should be a public need for intervention, and secondly, it should be officially established by law. However, a restriction, even if these two criteria exist, cannot be considered constitutional-legal if it violates the essence of property rights.<sup>7</sup> The Law of Georgia „On the Rule of Expropriation of Property for Essential Public Needs” defines these cases quite exhaustively.

The Constitution of Georgia separates the right of intellectual property and it is protected by another article independently. According to the first paragraph of Article 20, “Freedom of creativity shall be guaranteed. The right to intellectual property shall be protected.”

## 1. RESTRICTION FOR ALIENS

According to The article 33 of constitution, citizens of other states and stateless

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<sup>5</sup> GEÓRGIA. **Constitutional Law of Georgia of October**. 15, 2010, № 3710-SSM I, № 62, 05.11.2010.

<sup>6</sup> Decision of the Plenum of the Constitutional Court of Georgia 173/4/550 of 17 October 2017 on the case of Nodar Dvali, a citizen of Georgia v. Parliament of Georgia.

<sup>7</sup> PIRTSKHALASHVILI, A. **Commentary on the Constitution of Georgia**: Chapter Two. Citizenship of Georgia. Fundamental Human Rights and Freedoms. Publishing House Petit Ltd, 203. p. 214.

persons living in Georgia shall have rights and obligations equal to those of citizens of Georgia except in cases provided for by the Constitution and law. one of this exception is declared by the 4th paragraph of 19th clause: „4. As a resource of special importance, agricultural land may be owned only by the State, a self-governing unit, a citizen of Georgia or an association of citizens of Georgia. Exceptional cases may be determined by the organic law, which shall be adopted by a majority of at least two thirds of the total number of the Members of Parliament. the Organic Law of Georgia on Agricultural Land Ownership, which was adopted in June 2019, also sets that [paragraph 6] An agricultural land parcel shall not be used as a collateral, with the condition of transferring it into the ownership, also A claim or a right, which gives rise to the title to an agricultural land parcel, shall not be ceded in favour of an alien, a legal entity registered abroad and/or a legal entity under private law registered in Georgia, whose dominant partner is an alien/a legal entity registered abroad or whose dominant partner cannot be established under Article 4(1)(d) of this Law. according to [Article 10 th] Transitional Provisions „ If, at the moment of entry of this Law into force, the title to an agricultural land parcel held by an alien or a legal entity under private law registered in Georgia, whose dominant partner is an alien and/or a legal entity registered abroad or whose dominant partner cannot be established under Article 4(1)(d) of this Law, has been registered or is registered in accordance with paragraph 1 of this article, the obligations determined by this Law shall not apply to such title. If, after the entry into force of this Law, the citizenship of Georgia of a citizen of Georgia, whose title to an agricultural land parcel has been registered, is terminated, the obligations imposed on aliens under this Law shall not apply to the registered title.

Prior to the adoption of the Organic Law and constitutional restriction, the issue was regulated by an ordinary law whose constitutionality was discussed in the Constitutional Court because of the constitutional claim of Danish citizen Heike Kronkvist.<sup>8</sup> The Constitutional Court abolished the restriction imposed on aliens and made the right of land ownership by aliens available. In considering this case, the Constitutional Court has held the view that the right to property is a natural right, without which the existence of a democratic society is impossible<sup>9</sup>. This concept was also voiced in an earlier decision: The right to property is also a natural right, without it the existence of a democratic society is impossible. The right to property is not only the elementary basis of human existence, but also ensures freedom, adequate realization of skills and abilities, leading life at own risk. All this legitimately determines the private initiatives of the individual in the economic field, which contributes to the development of economic relations, free enterprise, market economy, normal, stable

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<sup>8</sup> GEORGIA. Judgment of the Constitutional Court of Georgia № 3/1/512 in the case "Danish citizen Heike Kronkvist v. Parliament of Georgia". June 26, 2012.

<sup>9</sup> GEORGIA. Judgment of the Constitutional Court of Georgia № 3/1/512 in the case "Danish citizen Heike Kronkvist v. Parliament of Georgia". June 26, 2012.

civic turnover. At the same time, private property, as an institution, is the core of a market economy. Therefore, it is one of the important preconditions not only for economic competition between the owners, but also for a democratic state and society <sup>10</sup>. In this decision, the Constitutional Court shared the approach of property rights as a natural right, according to which Private property, rightly based, defined, and limited, appears in such sense a natural right that it appeals for support to the universal element in human nature.<sup>11</sup>

In order to overcome the opinion of the Constitutional Court, the legislator further regulated the issue by the Constitution and organic law of Georgia on Agricultural Land Ownership. However, this does not mean an absolute restriction.<sup>12</sup>. Exceptions from this restrictions are also determined by the Organic Law. Pursuant to the 4th Article „Agricultural land may be in the ownership of an alien if the land was inherited”. Although it did not provide for the possibility of transferring agricultural land to an alien by last will. In general, the reason for the introduction of this restriction was the tendency of mass transfer to foreigners this category of land plots, which is considered a resource of special importance for the small land of Georgia.

## 2. PROTECTION OF THE RIGHT TO PROPERTY AND THE RIGHT TO ACQUIRE PROPERTY

It is considered that the property right protected by the Constitution of Georgia, in contrast to the Convention on Human Rights, case law and also the basic German law, not only recognizes the guarantee of protection of an existing property, but also protects and ensures the right to purchase property.<sup>13</sup> However, the issue becomes problematic when both rights need protection at the same time. in Georgia a presumption of veracity and completeness shall operate with respect to the contents of the Public Registry; that is the Register records shall be presumed accurate until proved incorrect. With regard to the management of real estate, the Constitutional Court said that civil turnover should be distinguished by proper simplicity and not be hampered by unnecessary transaction costs and unreasonable delays. The state should refrain from excessive interference with the use and disposal of property rights. In private legal relations, the state, as a person exercising public authority, does not participate as an acquirer or alienator of property. In this sense, state

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<sup>10</sup> GEORGIA. Judgment N1/2/384 of the Constitutional Court of Georgia in the case "Citizens of Georgia - Davit Jimshelishvili, Tanel Gvetadze and Neli Dalalishvili v. Parliament of Georgia". July 2, 2007. Section II-5.

<sup>11</sup> NEWCOMB, George B. Theories of Property. **Political Science Quarterly**, vol. 1, n°. 4, dec., 1886, pp. 595-611. Available at: <https://www.jstor.org/stable/2139069>.

<sup>12</sup> GEGENAVA, Dimitri. (Eds.) Introduction to Constitutional Law of Georgia. **Sulkhan-Saba Orbeliani University Press**, 2019. p. 77.

<sup>13</sup> PIRTSKHALASHVILI, A. **Commentary on the Constitution of Georgia**: Chapter Two. Citizenship of Georgia. Fundamental Human Rights and Freedoms. Publishing House Petit Ltd, 203.

involvement is limited to the regulation of relations only<sup>14</sup>. As we can see, this approach is based on the "invisible hand theory"<sup>15</sup>, however In fact, one of the fathers of the political economy of liberalism, Adam Smith, did not only create the metaphor of the “invisible hand” operating in market relations and guiding private actors to a contribution of the general welfare by pursuing their individual and egoistic interest in benefit and profit. He also insisted on the ‘visible hand’ of the State, which has to provide for all works and institutions that are advantageous for the society at large<sup>16</sup>. Accordingly, the state must be particularly diligent in introducing not only norms regulating property, but also mechanisms for preventing and restoring right violations. However, cases of violation of property rights are frequent in Georgian court practice. A constitutional debate was held on one of them. In the case, the land owned by the plaintiff was registered in the public register by another person through a false deed of acceptance. After that, the land was sold twice. The plaintiff initially filed a lawsuit with the Court of First Instance seeking annulment of the purchase agreements on the basis of which third parties acquired the land. His claim was dismissed, the court held that the buyer was a bona fide purchaser. The plaintiff then appealed to the Constitutional Court of Georgia. He argued that in a transaction with an unauthorized alienator of real estate, the property would be acquired by a bona fide purchaser, provided that the consent of the real owner is not forthcoming. As a result, the real owner himself loses the right of ownership. The two parties in good faith had legal claims over the disputed property. The court recognised as unconstitutional The normative content of Article 185, according to which ‘the transferor shall be deemed as the owner if he/she is registered with the Public Registry as such, when the record in the Registry has been appealed against and the acquirer is aware of this fact. Accordingly, if the acquirer is informed of a complaint against the record, the "restriction" (presumption of authenticity of the register) established by the disputed norms will not protect him. To ensure a reasonable balance, the acquirer himself must verify the information on the authenticity of the right and bear the risk that the dispute may result the annulment of the public registry entry.<sup>17</sup> It should be noted that four years have passed since this decision, but there is still no mechanism by which the purchaser will be be informed about the existence of a dispute about the correctness of the public registry entry. Consequently, there is still a risk of infringement of property rights, and despite the constitutional right to property, the bona fide purchaser of property still enjoys preferential protection. In the case

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<sup>14</sup> SMITH, Adam. **An Inquiry into the Nature and Causes of the Wealth of Nations**, 1776, Book IV, Chapter 2 (for the invisible hand) and Book V, Chapter 1 (for the public works) .

<sup>15</sup> SMITH, Adam. **An Inquiry into the Nature and Causes of the Wealth of Nations**, 1776, Book IV, Chapter 2 (for the invisible hand) and Book V, Chapter 1 (for the public works) .

<sup>16</sup> KNIEPER, Rolf. **Preventive administration of justice – an economic catalyzer for the future:** an analysis of the economic relevance of reliable and transparent public registers. February 2019. p. 02

<sup>17</sup> CHACHAVA, S. **Evaluation of the Constitutional Court decision of 17 October 2017 regarding the presumption of the public register.**



law of Georgia, there are frequent cases of alienation of someone else's property by fraudulent schemes, as a result of which the rights of the bona fide purchaser are protected, while the owner can only claim damages from the fraudster, who is already insolvent and pays the penalty. In such a case, his rights cannot be restored and the obligation to compensate not only for moral but also for financial damage remains unfulfilled.<sup>18</sup>

### 3. SCOPE OF STATE INTERVENTION IN THE RIGHT OF PROPERTY

The right to property, in addition to possession and use, also includes the right of dispose. However, in this regard, there is a fairly radical restriction on property rights, in particular in mortgage encumbrances. This was due to the legislative changes of December 25, 2007, which abolished the mandatory notarization of real estate transactions. Article 311<sup>19</sup> of the Civil Code of Georgia defined the procedure for submitting a transaction in the public register: A transaction made in writing shall be submitted to the Public Registry to register the relevant right to the thing and intangible property. The transaction or the signatures of the parties to the transaction shall be authenticated according to the procedures laid down by law. If the parties to a transaction sign the transaction in the registration authority in the presence of an authorised person, then the transaction or the signatures of the parties to the transaction need not be authenticated in order for the transaction to be valid. 3. Where so provided by law, transactions involving things and intangible property shall take effect upon registration of the rights determined by such transactions with the Public Registry<sup>19</sup>. Thought, the reform has simplified and facilitated real estate transactions, but has increased risky transactions. The conclusion of such transaction is characterized by one important feature – there are verified only the signatures of parties, but not the authenticity of the will to dispose the property, also the parties are not legally advised. As a result, many legally unaware citizens found themselves in an unequal position, as they bore the burden of legal proof themselves. Due to the difficult economic situation in Georgia, citizens entered into mortgage loan agreements, so that they were deprived of the opportunity to understand the meaning of legal terms and determine the consequences of violating the agreement. Subsequently, they were unable to repay the rather high-interest loans, lost their homes and the so-called Layer of "mortgage-affected" citizens appeared. It is believed that The sustainability of market economies depends on a mutually enabling interrelation of private business activities performed in the individual's interest and the creation and maintenance of physical and social infrastructure by the State. One of the pillars of social infrastructure is the administration of justice. In most civil law jurisdictions, the administration of curative justice is complemented by preventive justice, which is aimed at securing rights and obligations, among which

<sup>18</sup> GEORGIA. **Decision of the Supreme Court of Georgia**, Nss287-279. June 8, 2014.

<sup>19</sup> GEORGIA. **Civil Code of Georgia**. Approved on June 26, 1997. Art. 311.



prominently formal title to property, including property of land. The objective of preventive justice is the establishment of legal certainty; its instruments are the codification of (land) law as well as the notarial authentication of private legal acts and the registration of title and other rights to land.<sup>20</sup> With this reform, the legislature refused to enforce preventive justice on real estate disposal, which resulted heavy consequences.

In order to eliminate the grave consequences and improve the situation of the population Legislative changes were made in the Civil Code on December 25, 2013, according to which A mortgage contract made to secure a claim arising from a loan agreement shall be certified by a notary. In certifying the mortgage contract, the notary shall inform the parties to the contract of the legal implications of their violation of the obligations under the loan agreement and the mortgage contract. To register a mortgage with the Public Registry, the notary shall follow the procedures provided by the legislation of Georgia. The procedures and conditions for registering a mortgage with the Public Registry shall be determined by an order of the Minister of Justice of Georgia.<sup>21</sup> Later, to solve the problem, the legislator went further and made a rather radical intervention, and Article 286, Part 4 was added to the Civil Code of Georgia, which stipulates that an immovable thing, and a water and air means of transportation owned by a natural person or another natural person may not be used as security for a claim proceeding from a loan/credit agreement to be granted/granted to the natural person (including to the individual entrepreneur). The exception to this rule is provided by paragraph 6 of the same article, according to which The restriction shall not be effective if the agreement concluded between the parties specifies that a mortgaged immovable thing will be transferred to a natural person (including to an individual entrepreneur) for using as a dwelling room, or to a mortgagee legal person for using as a domicile (legal address). In addition, if two rights to mortgage have been registered in favour of one and the same natural person (including an individual entrepreneur) or legal person, the restriction under paragraph 4 of this article shall apply to him/her/it when concluding the third and each following mortgage agreement. It should be noted that the Constitutional Court considered the constitutionality of the above article and ruled that: the lack of legislative regulation and the establishment of full contractual freedom may pose a risk that poses a serious threat to public interests, such as the protection of the rights of individuals. Ensuring their solvency, reducing redundancy risks and ensuring financial stability. And the measure imposed by the disputed norm is not so severe as to be incompatible with the principles of the free market. In view of all the above, the balance between the private and public interests established by the disputed norm was not considered unfair and it was established that the

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<sup>20</sup> KNIEPER, Rolf. **Preventive administration of justice – an economic catalyzer for the future**: an analysis of the economic relevance of reliable and transparent public registers. February de 2019. p. 12.

<sup>21</sup> GEORGIA. **Law of Georgia of December 25, 2013, № 1864**. Published on website, Dec. 30, 2013.

disputed norm does not contradict the first and second paragraphs of Article 19 of the Constitution of Georgia.<sup>22</sup> However, the Constitutional Court has not considered a means of circumventing legislative regulations, such as concluding a fraudulent transaction. In particular, instead of a mortgage, the parties enter into a purchase agreement with the right of redemption, which is a fraudulent transaction and will lead to more serious consequences in the future. In view of the above, it can be said that although the right to property is protected by the Constitution, civil legal mechanisms cannot ensure the full protection of property rights.

It is noteworthy that Articles 183 and 186 of the Civil Code of Georgia require that immovable property and movable property worth more than 1,000 GEL, belonging to a child, can be disposed by the parent only in accordance with the best interests of the child. Hence, this is with permission of the court. The need for mandatory judicial control is prompted by regrettable examples in judicial practice of parents violating children's property rights. Additionally, there is a different approach towards parents and guardians. Such transactions by guardians are subject to administrative control - the consent of the guardianship agency is required - instead of the consent of the court for the parent. In addition, this approach creates an imbalance in legal institutions and civil turnover, since judicial control over the transaction and its prior approval are part of preventive justice. Thus, this is usually carried out by notaries in continental law countries.

In relation to children, it is interesting that, based on the principles of the market economy, a child becomes the owner of his family's property not from birth, but only after the death of his parents, which is often the basis of economic violence. In this regard, the Soviet Union institution of "household" was remarkable. In the future, humanity may think about sharing the right of ownership with the child from birth, because a person becomes a co-owner of the public goods on earth with the rest of humanity from birth.

## CONCLUSION

The Constitution of Georgia adopted on 24th of August 24, 1995 protects the right to private property. Under the constitution The right to own and inherit property shall be recognised and guaranteed. but is not absolute right, as it may be restricted in cases defined by the law and in accordance with the established procedure for the public interest. The 19th clause directly restricts the ownership of agro cultural land plots by aliens except inheritance. However, it should be noted that despite the protection declared in the Constitution, which is the supreme law of the country, in some cases, the protection of property rights is weakened by legal acts with less force. The interests of the bona fide buyer are primarily protected by

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<sup>22</sup> GEORGIA. **Decision of the First Panel of the Constitutional Court of Georgia** № 1/4/1380. Batumi, Dec. 18, 2020.

the Civil Code. Also, the prohibition of mortgages is such an interference in the right of ownership, which is not consistent to the right of ownership, and therefore, despite the prohibition, it is still carried out in different ways. Also, the double standard in relation to the disposal of the child's property, cannot be evaluated effectively. All of the above is due to the fragmentary changes on the classic property right. Accordingly, it is appropriate to restore the continental law approaches regarding property regulations.

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**AUTHOR INFORMATION**

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**Nino Kharitonashvili**

Doctor of Law. Associate professor of Caucasian University.

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