

Disputed Catholic churches in Georgia and restitution policy: more unequal than others

Sporne świątynie katolickie w Gruzji i polityka restytucyjna: mniej równi niż inni

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Abstract: After the collapse of the totalitarian regime and the restoration of independence, Georgia faced the consequences of the Soviet Union's anti-religious policies alone. Rapid and often ill-considered decisions regarding the restitution of religious buildings confiscated during the occupation created additional complications for the country. During the final years of the Soviet Union and in the first years of independence, Soviet authorities first and then Georgian authorities transferred to the Georgian Orthodox Church not only Orthodox temples but also buildings claimed by other religious organisations. Among these are six Catholic churches that both the Apostolic Administration of the Latin Catholics of Caucasus and the Holy See have requested the Georgian government to return. The absence of a coherent restitution policy, as well as the ongoing attempts to maintain the status quo, have failed to resolve the issue, while the disputed temples have remained a source of tension between the interested churches and their congregations. This article examines the problematic aspects of both the historical and legal ownership of these disputed churches as well as Georgia's experience with religious property restitution. The paper also analyses the relevant experiences of other countries from a comparative perspective that could prove valuable for Georgia in reaching a final and equitable resolution of religious property restitution disputes. This approach is particularly important, considering that several of the disputed churches are in a deplorable condition and are facing progressive deterioration, and the situation demands immediate intervention by state authorities.

Key words: Catholic Church; Georgia; disputed churches; restitution policy

Streszczenie: Po upadku reżimu totalitarnego i odzyskaniu niepodległości Gruzja musiała stawić czoła konsekwencjom antyreligijnej polityki Związku Radzieckiego. Dodatkowe komplikacje zostały wywołane przez szybkie i często nieprzemyślane decyzje dotyczące restytucji budynków sakralnych skonfiskowanych w okresie okupacji. W ostatnich latach Związku Radzieckiego oraz w pierwszych latach niepodległości najpierw władze sowieckie, a następnie również władze gruzińskie przekazały Gruzji Kościołowi Prawosławnemu nie tylko świątynie prawosławne, lecz także obiekty sakralne, do których roszczenia zgłaszały inne związki wyznaniowe. Chodzi m.in. o sześć katolickich świątyń, o których zwrot do gruzińskiego rządu wystąpiła zarówno Administratura Apostolska Kaukazu, jak i sama Stolica Apostolska. Brak spójnej polityki restytucyjnej i stale podejmowane próby utrzymania *status quo* powodują, że kwestia ta pozostaje nierozwiązana, a sporne świątynie pozostają źródłem napięć pomiędzy zainteresowanymi kościołami i wspólnotami wiernych. W niniejszym artykule podjęto się analizy problematycznych kwestii związanych z własnością spornych świątyń, biorąc pod uwagę zarówno aspekty historyczne, jak i prawne. Analizie poddano też gruzińskie doświadczenia z restytucją mienia sakralnego. Biorąc pod uwagę perspektywę prawnoporównawczą, odniesiono się przy tym do doświadczeń innych państw, których uwzględnienie może się przyczynić do wypracowania w Gruzji ostatecznego, sprawiedliwego rozwiązania sporów o restytucję mienia sakralnego. Jest ono bardzo potrzebne ze względu na fakt, że niektóre ze spornych świątyń znajdują się w opłakanym stanie, ulegając z upływem czasu dalszej degradacji, a istniejąca sytuacja wymaga pilnej interwencji władz państwowych.

Słowa kluczowe: Kościół Katolicki; Gruzja; sporne świątynie; polityka restytucyjna

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Introduction

The clash between the Soviet Union and de-occupation resulted in sociopolitical trauma and serious legal consequences for Georgia. It would have been more logical for Georgia to maintain legal continuity; however, this option was fundamentally rejected, and the Georgian state officially renounced any form of legal succession from the Soviet system. Although this decision holds fundamental importance, the Georgian government cannot evade its obligation to return property that the totalitarian regime confiscated from religious organisations. Confiscated religious buildings did not disappear with the Soviet Union; they remained on Georgian territory, naturally raising the question about whether, when and how they would be returned to their rightful owners. Additionally, during the final years of the Soviet Union's existence, religious buildings throughout the country were transferred to the Georgian Orthodox Church without proper documentation, historical-legal ownership determination, or identification, inevitably generating numerous disputes and conflicts among religious communities.

According to the State Agency for Religious Issues, there are more than 2,500 active religious buildings in Georgia.¹ Despite their historical and cultural value, a significant proportion of these buildings have not been granted cultural heritage status and are consequently not subject to state protection obligations. Simultaneously, challenges exist regarding the state's inadequate maintenance of mosques with cultural heritage status² and the risk of losing the original appearance of buildings already transferred to the Georgian patriarchate.³ The absence of a restitution policy, in turn, encourages arbitrary decisions by representatives of the dominant religious group, including attempts to reconstruct disputed religious buildings, resulting in the loss of their authentic appearance.

This article examines the legal regulation of religious building restitution in Georgia, its practical implementation, and key policy directions. Special attention is devoted to examining the disputed Catholic churches that are currently under the control of the dominant religious group, the Georgian patriarchate, and analysing the fundamental issues of property rights transformation vis-à-vis these churches. This paper also investigates the international practice of religious building restitution, particularly in post-communist states that have successfully implemented democratic restitution policies, is investigated through comparative legal analysis. This paper proposes potential resolution mechanisms for the aforementioned problems to achieve improved regulation and legal recognition of the legitimate ownership of the disputed Catholic churches.

1. State policy on the restitution of religious buildings in Georgia

1.1. Legal framework for religious building restitution

Religious building restitution in Georgia began as early as 1990, before the restoration of state independence, when the Georgian government recognised the Georgian Orthodox

¹ Religious Buildings Functioning in Georgia, <https://religion.gov.ge/cults/> [accessed: 28 April 2025].

² Saneblidze 2016, 5.

³ Noniashvili 2020, 12.

Church's ownership of all religious buildings along with all associated property and land.⁴ This was further confirmed by the constitutional agreement, which formally recognised Orthodox churches, monasteries, their ruins, and the land plots on which they are located throughout the entire territory of Georgia as belonging to the Orthodox Church.⁵ This seemingly logical and neutral provision, which should have protected interests of only the Orthodox Church as the legitimate owner of the majority of religious buildings in Georgia and ensured the return of property confiscated during the Soviet occupation, has generated numerous practical problems. Among the buildings transferred to the Georgian patriarchate were several temples claimed by the Catholic Church and the Armenian Apostolic Church.⁶ A significant challenge also arose as a result of the legislation's failure to comprehensively regulate issues related to religious building restitution, including the absence of a proposed and defined concept of communal property that would enable religious communities to establish ownership rights over confiscated property.⁷

The Law on State Property of 2010 prohibits the privatisation of religious buildings (both functioning and non-functioning), their ruins, and the land plots on which they are situated.⁸ However, simultaneously, the legislation recognises the Georgian Apostolic Autocephalous Orthodox Church as an eligible acquirer of state property,⁹ and pursuant to the constitutional agreement, Orthodox buildings are its property. Consequently, unlike other religious entities, the Orthodox Church is not subject to the prohibition on privatisation. It is precisely this exclusive and privileged legal regime that was challenged before the Constitutional Court of Georgia in the context of the right to equality.¹⁰ The Constitutional Court accepted the case for substantive consideration in 2021,¹¹ though it has not yet been concluded, and it remains uncertain when a final decision will be rendered. Unfortunately, a prolonged case examination represents a rather established practice in sensitive constitutional disputes involving religious organisations.

The legal framework for religious building restitution in Georgia is both theoretically and practically illusory. Although property restitution to the Orthodox Church occurred without any study or analysis by government authorities, simply based on political will and subordinate normative acts (with *post factum* regulation by the constitutional agreement), legislation regarding other religious communities remains fragmentary and completely disregards the needs of nondominant religious organisations.

⁴ See: Resolution No. 183 of the Council of Ministers of the Soviet Socialist Republic of Georgia, 12 April 1990.

⁵ Constitutional Agreement between Georgia and the Georgian Apostolic Autocephalous Orthodox Church, 14 October 2002, Article 7.

⁶ Noniashvili 2020, 34–42; Gavtadze et al. 2022, 15.

⁷ Noniashvili 2020, 37.

⁸ Law of Georgia No. 3512–6b on State Property, 21 July 2010, Article 4(1)(a).

⁹ Ibidem, Article 3(1).

¹⁰ Constitutional Complaint N1640 against Parliament of Georgia, 29 July 2021.

¹¹ Recording Notice No. 1/8/1593 of the Constitutional Court of Georgia, 11 June 2021.

1.2. Policy and practice: restitution not for all

Religious building restitution extends beyond legislative frameworks to encompass state action plans and supplementary policy instruments.¹² This process necessitates a clearly articulated vision by the state, formulated with careful consideration of public sentiment, prevailing socioeconomic conditions, and the historical trajectory of national development. The matter primarily concerns the state's approach to ensuring the realisation of equitable rights for nondominant religious communities and the strengthening of religious freedom protections.

In 2003, negotiations towards an agreement between the Holy See and Georgia commenced, and the parties proposed the establishment of an ad hoc joint commission to resolve disputed property matters, including religious edifices, was proposed.¹³ This initiative ultimately proved unsuccessful owing to opposition from the Orthodox Church, with the primary point of contention being the ownership status and restitution of contested Catholic churches.¹⁴ This assessment is corroborated by the failure of previously established mechanisms: Notably, 2004 saw the formation of the Orthodox-Catholic Commission, which convened only twice before concluding its work without substantive outcomes.¹⁵

Restitution-related matters were added to the governmental policy agenda in 2012, accompanied by more substantive discussions regarding the return of religious properties to their historical and confessional proprietors. That same year, the Government of Georgia established a commission, although its mandate was narrowly circumscribed to address only the Georgian Orthodox Church's religious buildings abroad, determine their provenance and ownership status, and conduct monitoring activities.¹⁶ Documentation of the commission's activities remains unpublished,¹⁷ and concurrently, the rationale for excluding domestic religious buildings from the commission's purview – particularly regarding the determination of their origin and ownership – remains unexplained.

In 2014, the Government of Georgia established a public law entity – the State Agency for Religious Issues – whose statutory framework conspicuously omits any reference to restitution matters,¹⁸ although subsequently, by directive of the agency's chairperson, an advisory commission on property and financial matters pertaining to religious communities was constituted.¹⁹ It is exclusively pursuant to this commission's recommendations that religious edifices are allocated for temporary use to nondominant religious organisations in Georgia. Properties that are provisionally transferred based on the commission's determinations are characterised by the state as restitution,²⁰ although that legal title remains vested in the state.

The restitution policy in Georgia applies exclusively to the Georgian Apostolic Autocephalous Orthodox Church, with every initiative to extend comparable provisions to

¹² Bejtja, Bejtja 2015, 34.

¹³ Gegenava 2023, 138.

¹⁴ See: Ibidem, 136–137.

¹⁵ Parulava, Mgaloblishvili 2016.

¹⁶ Ordinance No. 142 of the Government of Georgia, 12 April 2012.

¹⁷ Noniashvili 2020, 8.

¹⁸ Ordinance No. 177 of the Government of Georgia, 19 February 2014.

¹⁹ Order No. 6/1 of the Chairman of State Agency for Religious Issues of Georgia, 15 September 2014.

²⁰ 2016–2017 Activity Report of the State Agency for Religious Issues of Georgia, Tbilisi 2018, 74.

other religious organisations resulting in failure.²¹ The measures implemented by the state bear no substantive relationship to genuine religious building restitution; furthermore, the practice of temporary use allocation fundamentally contravenes the essential purpose of restitution – to reestablish the historical ownership rights of specific religious communities.²² This practice constitutes unequivocal discrimination, creating an unjustifiable distinction between the Orthodox Church and all other religious communities. Such differential treatment parallels the constitutional violations (a breach of the equality principle among religious organisations) observed in comparable jurisdictions, where only one of the regulatory commissions was dissolved although all of them have operated under identically controversial principles.²³ The underlying rationale for religious building restitution should be the restoration of property to its historical and legitimate proprietor rather than the perpetuation of a status quo that disproportionately benefits the dominant religious group and the state apparatus.

2. Georgia–Holy See relations and disputed Catholic Churches: past and current legal status

2.1. Georgia and the Holy See in the context of religious building restitution policy

The state currently demonstrates a comprehensive abdication of its responsibility for determining the historical and confessional provenance of specific religious edifices. In the absence of legislative regulation and amid evident preferential treatment accorded to the Orthodox Church, the nondominant religious entities are effectively precluded from accessing legal mechanisms to establish their property rights. The disposition towards the Catholic Church as a minority religious community, shaped under the dual influence of Soviet propaganda and religious nationalism, is further complicated by the international status of the Holy See and its standing as a distinct entity in bilateral relations with the Georgian state. Documented incidents reveal that representatives of the Georgian patriarchate systematically impede Catholic parishioners and clergy from conducting religious observances in proximity to Catholic churches, impose discriminatory prohibitions on worship, and engage in physical confrontations.²⁴

In 2023, Cardinal Parolin, the Secretary of State of the Holy See, formally petitioned the Georgian government through diplomatic correspondence, requesting the restitution of six churches to the Catholic Church that are currently occupied by Orthodox parishes. The communication included documentary evidence substantiating each church's historical affiliation with the Roman Catholic community.²⁵ Notwithstanding established norms of international relations, diplomatic protocol, and customary practice, the Georgian government has refrained from issuing an official response to the

²¹ Chitanava, Chabukiani 2014, 29.

²² Riegger 2000, 22.

²³ Walencik 2022, 15–16.

²⁴ See: What happened in Buzmaret? – Chronology [რა მოხდა ბუზმარეთში? – ქრონოლოგია], 23 May 2023, <https://publika.ge/ra-mokhda-buzmaretshi-gronologia/> [accessed: 25 April 2025].

²⁵ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

Holy See. This diplomatic silence raises significant concerns, with implications extending beyond bilateral relations between actors of international law to affect the sociopolitical position of the Catholic Church and its adherents in Georgia, whom both governmental authorities and the Orthodox leaders often portray as foreign entities and representatives of an external sovereign power.

2.2. Disputed Catholic Churches in Georgia

2.2.1. The Holy Family Church in Gori

The presence of the Catholic Church in the city of Gori dates approximately to the fifteenth century.²⁶ In official diplomatic correspondence from the Secretariat of State of the Holy See to the Georgian government, the construction period of the Holy Family Catholic Church in Gori is documented as 1806–1810,²⁷ although certain scholarly sources identify 1822 as the date of the edifice's completion.²⁸

Following the Soviet occupation of Georgia, the church was initially closed in 1923 and subsequently shuttered again in 1937 under various pretexts.²⁹ While the Bolshevik authorities repurposed the structure for civic functions, Georgian Catholics persisted in their efforts to reclaim the ecclesiastical property.³⁰ Despite sustained advocacy, the initiatives of the Catholic congregation and clergy ultimately proved unsuccessful.

From 1989, the Holy Family Catholic Church in Gori was summarily designated as the property of the Georgian Orthodox Church, absent any substantive investigation into its historical and confessional provenance. The church was occupied by the Orthodox congregation and was promptly established as the cathedral of the Orthodox Bishop of Gori.³¹ The diocese has undertaken multiple renovation projects at the site, significantly altering both its interior elements (altar, ornamental features, gallery, and frescoes), exterior façade, and courtyard.³² Concurrent with these modifications, a new three-storey bell tower and perimeter wall were constructed within the church grounds.³³ Despite persistent objections from the local Catholic community, alterations to the church's architectural integrity continued unabated, and it was only in 2008 that the structure received protected status as a cultural heritage monument.³⁴

2.2.2. The Immaculate Conception Church in Kutaisi

Researchers have access to diverse historical documentation regarding the Catholic population in Kutaisi, and it encompasses both demographic statistics³⁵ and photographic

²⁶ Papuashvili 2013, 47.

²⁷ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

²⁸ Tamarashvili 1902, 515.

²⁹ Sosiashvili 2013, 69; Papuashvili 2013, 82.

³⁰ Surguladze et al. 2022, 192–193.

³¹ Papuashvili 2013, 82.

³² Ibidem, 83.

³³ See: Aptsiauri 2011.

³⁴ Order No. 3/36 of the Minister of Culture and Heritage Preservation of Georgia, 4 March 2008.

³⁵ Begishvili 2018, 123.

evidence of concentrated Georgian Catholic settlements.³⁶ The construction of the Immaculate Conception Church commenced in the initial decade of the 19th century, with consecration occurring in 1862.³⁷ The edifice was constructed on parcels of land that were formally granted to Fathers Marioz, Celerine, and Nikola through royal charters issued by Solomon II, King of Imereti, in 1800 and subsequently by Queen Mariam in 1803.³⁸

In 1937, the Bolsheviks expropriated the church from the Catholic congregation³⁹ and repurposed it for civic functions.⁴⁰ Concerted efforts by Kutaisi's Catholic adherents to secure registration of their religious community and reclaim the church began in 1988, but these initiatives proved unsuccessful.⁴¹ During the summer of 1989, the church was summarily occupied by the Orthodox congregation,⁴² and the Soviet authorities formally transferred the property to the Georgian Orthodox Church.⁴³

In 2001, the local Catholic congregation initiated formal litigation for restitution, filing a lawsuit against the president of Georgia in the Tbilisi District Court and petitioning for the transfer of usufructuary rights to the Immaculate Conception Church. The court incorporated the Georgian patriarchate and the Department of Monument Preservation of Georgia as third-party litigants. The proceedings extended over two years, culminating in the dismissal of the claim: The judicial decision was predicated upon decrees enacted by the Council of Ministers of the Georgian Soviet Socialist Republic, the absence of applicable legislative frameworks for religious organisation registration during the relevant period, and the constitutional agreement concluded between the State of Georgia and the Georgian Apostolic Autocephalous Orthodox Church in 2002.⁴⁴ The court notably abstained from investigating and consequently adjudicating upon the determination of the historical and confessional proprietorship of the structure. This ruling was subsequently appealed to the Supreme Court of Georgia, which deemed the cassation appeal without merit and accordingly preserved the lower court's determination.⁴⁵ By mutual accord between the Holy See's diplomatic representative to Georgia and the Apostolic Administrator of Latin Catholics, the matter was not referred to the European Court of Human Rights.⁴⁶ This decision constitutes a significant juridical miscalculation from a legal perspective, and this circumstance cannot be mitigated by considerations of political expediency, which effectively eliminated viable legal recourse regarding this particular ecclesiastical property.

³⁶ Preserved in the Ilia Chavchavadze Public Library of Kutaisi. See digital version at: <https://dspace.nplg.gov.ge/handle/1234/140905> [accessed: 28 April 2025].

³⁷ Bardavelidze 2018, 229.

³⁸ Natsvlshvili 2019, 102.

³⁹ Bardavelidze 2018, 230.

⁴⁰ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

⁴¹ Bardavelidze 2018, 230.

⁴² Papuashvili 2018, 240.

⁴³ Decision No. 13/77-450 of the Former Lenin Executive Committee of Kutaisi, 7 June 1989; Protocol No. 9 of the Council for Religious Matters of the USSR, 30 October 1989.

⁴⁴ Decision No. 35/40-2003 of the Tbilisi District Court, 30 June 2003.

⁴⁵ Ruling No. 86-275-416-3-03 of the Supreme Court of Georgia, 27 April 2004.

⁴⁶ How the "French Quarter" Disappeared in Kutaisi [როგორ გაქრა „ფრანგების უბანი“ ქუთაისში], 20 February 2012, <https://netgazeti.ge/life/12852/> [accessed: 28 April 2025].

2.2.3. The Immaculate Conception Church in Batumi

Documentation regarding the Roman Catholic congregation in Batumi emerges from the 19th century,⁴⁷ while the construction of the Immaculate Conception Church occurred specifically from 1889 to 1903,⁴⁸ financed predominantly by the Zubalashvili family, notable Georgian Catholic philanthropists.⁴⁹ During the 1930s, the Bolshevik authorities closed the ecclesiastical structure and repurposed it for civic functions.⁵⁰ In 1988, representatives of the Catholic community formally petitioned the government of Soviet Georgia for restitution of the church, but these efforts proved unsuccessful.⁵¹ In contrast, in 1989, the church, along with other religious edifices, was transferred to the Georgian Orthodox Church⁵² and currently functions as the cathedral of the Batumi Orthodox Diocese. The structure did not receive cultural heritage designation until 2011.⁵³ Prior to this protective classification, unauthorised architectural modifications and liturgical reconfigurations substantially compromised the building's exterior aesthetic integrity and interior architectural elements.

2.2.4. The Church of the Dormition of the Mother of God in Ude

The Catholic ecclesiastical presence in the village of Ude, Adigeni municipality, was initially documented in the 13th century, coinciding with the establishment of Meskhetian-Javakheti parishes under the jurisdiction of the Catholic bishop of Tbilisi.⁵⁴ Historical sources cite varying dates for the church's construction, although consensus indicates the first decade of the 20th century.⁵⁵ Particularly significant is the fact that the edifice was constructed through private contributions from the local Catholic and Muslim Georgian populations.⁵⁶

During the Soviet occupation era, consistent with the regime's treatment of other religious structures, authorities closed the Ude Catholic Church. The initial closure occurred in 1927, although the local Catholic congregation continued its religious observances clandestinely. In 1935, the temple had been repurposed as a collective farm storage facility and animal shelter. In 1942, in accordance with anti-religious policies, the Bolshevik authorities deliberately destroyed or removed the church's liturgical assets (bell, iconography, sculptural elements, etc.).⁵⁷

From 1987, the structure was occupied by the Orthodox congregation,⁵⁸ and from 1990, it was officially designated as the property of the Orthodox Church.⁵⁹ Despite the

⁴⁷ Bardavelidze 2018, 231.

⁴⁸ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

⁴⁹ Natsvlshvili 2015, 16.

⁵⁰ Natsvlshvili 2019, 146.

⁵¹ Bardavelidze 2018, 232.

⁵² Resolution No. 250 of the Soviet Socialist Autonomous Republic of Adjara, 15 March 1989.

⁵³ Order No. 3/31 of the Minister of Culture and Heritage Preservation of Georgia, 21 February 2011.

⁵⁴ Papuashvili 2021, 99–100.

⁵⁵ See: Ibidem; Natsvlshvili, 2019; Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

⁵⁶ Bardavelidze 2018, 224.

⁵⁷ See: Papuashvili 2021, 244, 306.

⁵⁸ Bardavelidze 2020, 16–17.

⁵⁹ Resolution No. 183 of the Council of Ministers of the Soviet Socialist Republic of Georgia, 12 April 1990.

church's designation as a cultural heritage monument since 2008,⁶⁰ architectural modifications not only persisted but also intensified considerably. Since 2012, a monastic establishment initiated by the Orthodox Church has operated in Ude, accompanied by the construction of residential quarters for religious personnel and a bell tower within the church precinct. The perimeter stone wall underwent restoration, and the church roof was subjected to comprehensive renovation.⁶¹

2.2.5. The Holy Cross Church of Ivrita

The Catholic presence in the village of Ivrita in Akhaltsikhe municipality dates to the mediaeval period.⁶² The Holy Cross Church of Ivrita possesses such antiquity that a definitive determination of its original construction date has proven elusive.⁶³ In the early 17th century – specifically 1641 – a new ecclesiastical structure was erected on the site of the previously destroyed church. This edifice, damaged during Turkish incursions, underwent restoration in 1691, followed by comprehensive rehabilitation in 1782.⁶⁴

Religious observances by the faithful persisted at the Holy Cross Church of Ivrita, even during the Soviet occupation of Georgia.⁶⁵ Nevertheless, the communist authorities prohibited formal religious services in the temple and appropriated the structure for civic functions.⁶⁶ In 1989, the Council for Religious Affairs under the Council of Ministers of the Soviet Socialist Republic of Georgia formally registered the Catholic congregation of Ivrita among other religious communities,⁶⁷ but the temple was subsequently transferred to the Georgian Orthodox Church in 1991.⁶⁸ In 1999, the temple underwent significant reconstruction, which effectively “resulted in the obliteration of the Catholic historical character of the edifice.”⁶⁹

Notwithstanding the Holy Cross Church of Ivrita's designation as a protected cultural heritage monument since 2008,⁷⁰ in 2021, the church's roof structure collapsed,⁷¹ and the temple remains in a state of severe physical deterioration.

2.2.6. The Church of the Ascension in Buzmareti

The Church of the Ascension in Buzmareti is located in Adigeni municipality, within the neutral territory along the Georgia–Turkey border. Although the precise date of its construction remains undetermined, researchers have confirmed the existence of a small

⁶⁰ Order No. 3/36 of the Minister of Culture and Heritage Preservation of Georgia, 4 March 2008.

⁶¹ Natsvlshvili 2019, 276–277.

⁶² Kutateladze 2019, 222.

⁶³ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

⁶⁴ Natsvlshvili 2019, 209.

⁶⁵ Bardavelidze 2018, 233.

⁶⁶ Kutateladze 2019, 228.

⁶⁷ Bardavelidze 2018, 233.

⁶⁸ Natsvlshvili 2019, 217.

⁶⁹ Nardavelidze 2018, 234.

⁷⁰ Order No. 3/36 of the Minister of Culture and Heritage Preservation of Georgia, 4 March 2008.

⁷¹ The Roof of the Disputed Church Collapsed in Ivrita – Bishop's Letter to the Agency [ივლიტაში სადავო ეკლესიის სახურავი ჩამოინგრა – ეპისკოპოსის წერილი სააგენტო], 23 February 2021, <https://www.catholic.ge/post/ივლიტაში-სადავო-ეკლესიის-სახურავი-ჩამოინგრა-ეპისკოპოსის-წერილი-სააგენტოს> [accessed: 25 April 2025].

church at this location dating back to the sixth century.⁷² Documentation regarding the church during the Soviet occupation is sparse; however, according to a 1932–1933 assessment, “Only the walls remained standing, while the arch had collapsed, and the eastern-northern section of the sanctuary had partially collapsed.”⁷³

In 2008, the church was designated as a cultural heritage monument.⁷⁴ Prior to this, between 2006 and 2007, Georgian Catholics undertook restoration work on the structure.⁷⁵ Between 2007 and 2008, the Orthodox Church established a monastery in proximity to the temple, and between 2011 and 2012, it commissioned interior paintings.⁷⁶ It remains unknown whether the relevant state authority granted permission for these alterations to the appearance of this cultural heritage monument.

3. The obligation of the restitution of religious buildings and human rights

Georgia’s discriminatory restitution policy regarding religious buildings has been strongly criticised by both local and international organisations.⁷⁷ According to the Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe, in Georgia, “religious minorities experience structural discrimination in terms of funding and access to places of worship. The procedures for restitution of places of worship and for construction permits are not sufficiently transparent and are not based on clear and objective legal criteria.”⁷⁸

The restitution of religious buildings – that is, returning them to their historical and confessional owners – is primarily an issue of freedom of religion rather than the realisation of property rights. According to the 1981 UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, freedom of thought, conscience, and religion includes “worship or assembly in connection with a religion or belief, and to establish and maintain places for these purposes.”⁷⁹ In 2013, the Parliamentary Assembly of the Council of Europe called on member states to “wherever the process of restitution of church property has not yet been completed, speed it up and bring it to completion in the short or medium term.”⁸⁰

According to the European Court of Human Rights (ECtHR) jurisprudence, under Article 9 of the European Convention, the state has no obligation to provide religious

⁷² Kutateladze 2019, 300.

⁷³ Bochoridze 1992, 60.

⁷⁴ Order No. 3/36 of the Minister of Culture and Heritage Preservation of Georgia, 4 March 2008.

⁷⁵ Letter N905/23/RS of the Secretariat of State of the Holy See to the Government of Georgia, 27 January 2023.

⁷⁶ Kutateladze 2019, 300.

⁷⁷ Coalition for Equality 2020, 59; Zviadadze et al. 2020, 65.

⁷⁸ Advisory Committee on the Framework Convention for the Protection of National Minorities, ACFC/OP/III(2019)002, 7 March 2019, para. 161.

⁷⁹ Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 25 November 1981, Article 6(a).

⁸⁰ Resolution 1928(2013) of the Parliamentary Assembly of the Council of Europe, 24 April 2013, para. 13.

organisations with property.⁸¹ Additionally, under the Convention, the state is not obliged to have restitution programmes at all; however, should it implement such a policy, control over it can be exercised in accordance with Protocol 12 of the Convention.⁸² Moreover, under European Court jurisprudence, if a state legislatively regulates restitution, it also incurs an obligation to ensure the right of access to a fair trial under Article 6 of the Convention.⁸³ In analysing this legal position, it is important to distinguish between the positive and negative obligations of the state. Although the state does not have a positive obligation to create restitution programmes upon implementing such a policy, it has a negative obligation not to allow discrimination and to ensure procedural fairness.

When the policy of restitution of religious buildings is being assessed, consideration must be given not only to the restriction of the right itself (for example, in Georgia's reality, the prohibition of privatisation of buildings) but also to the existence of transparent and well-ordered legislation. A detailed normative framework means not only introducing the concept of public (communal) property into legislation but also creating a normative base that ensures equal access to building restitution for nondominant religious groups.

In the broader context, the comprehensive restitution of property confiscated from religious organisations during the Soviet totalitarian regime presents a challenging obligation for Georgia, owing primarily to the country's difficult economic circumstances. These limitations may preclude the compensation possibilities available in other European countries. For instance, in 2006, the Georgian parliament adopted the Law on Property Restitution and Compensation for Victims of Conflict in the Former South Ossetian Autonomous Region on the Territory of Georgia, which received a positive assessment from the Venice Commission despite providing compensation options only in exceptional circumstances.⁸⁴ The Venice Commission has emphasised that administrative and judicial procedures used to verify or confirm property rights must consider the requirements of Articles 1, 6, and 13 of the First Additional Protocol to the European Convention and must adhere to European Court jurisprudence.⁸⁵

In the Georgian context, nondominant religious communities, researchers, civil society organisations, and the Religious Council under the Public Defender⁸⁶ highlight not only discriminatory legislative norms but also related issues that are directly connected to the restitution of religious buildings. Among these, access to archival materials is particularly critical, and according to Institute for Development of Freedom of Information, this requires legislative amendments.⁸⁷ Restricted information impedes both objective

⁸¹ *Griechische Kirchengemeinde München und Bayern E.V. v. Germany* [ECtHR], App. No. 52336/99, 18 September 2007; *Lupeni Greek Catholic Parish and Others v. Romania* [ECtHR], App. No. 76943/11, 19 May 2015, para. 136; *Gromada Ukrayinskoyi Greko-Katolytskoyi Tserkvy Sela Korshiv v. Ukraine* [ECtHR], App. No. 9557/04, 26 May 2016, para. 36.

⁸² Protocol 12 to the European Convention on Human Rights and Basic Freedoms, 4 November 2000, Article 1.

⁸³ *Sfântul Vasile Polonă Greek Catholic Parish v. Romania* [ECtHR], App. No. 65965/01, 7 April 2009.

⁸⁴ Venice Commission, Opinion No. 364/2005, CDL(2006)043, 31 May 2006, para. 17.

⁸⁵ Esanu et al. 2019, para. 67.

⁸⁶ Gavtadze et al. 2022, 35.

⁸⁷ Increasing Transparency of Archival Documents in Georgia – Legislative Proposal of Institute for Development of Freedom of Information, 23 April 2019, https://idfi.ge/en/idfi_initiative_on_legislative_amendments [accessed: 25 April 2025].

research on specific buildings and determination of the historical ownership of cultural monuments. It also establishes appropriate legal regimes. Without access to the relevant archival documentation, religious organisations are substantially limited in their ability to exercise their rights, while judicial determination of sensitive historical ownership issues becomes virtually impossible given the scarcity of archival evidence.

The matter of religious building restitution extends beyond historical justice, especially considering that historical manipulation is relatively straightforward and is, unfortunately, a widespread practice, particularly in societies that are characterised by both Soviet heritage and religious nationalism-based social integration. In such circumstances, human rights standards should serve as the primary guide for the proper planning and implementation of the restitution policy. The attribution of each religious building to a specific church should be decided within the framework of religious freedom and the prohibition of discrimination, while general policy should be formulated to enable all religious organisations in Georgia to register confiscated property with equal legal rights as their own. Only such an approach would ensure the fairness and sustainability of the restitution process in the long term.

4. Successful policy for the restitution of religious buildings

The policy of restitution of property confiscated during totalitarian regimes is developed in each country taking into account their historical, cultural, and legal contexts as well as their socioeconomic conditions. This is most evident in the example of the Baltic countries – each state's approach differs from the others.⁸⁸ When comparing restitution schemes, the assessment focuses primarily on how comprehensive and detailed the existing legislative and administrative mechanisms are. In the case of the Baltic countries, the Estonian model is considered significantly more effective than the restitution schemes of Latvia and Lithuania.⁸⁹

Given the importance of buildings to religious communities, even in countries in which compensation is defined as the only form of restitution, the transfer of religious buildings is still permitted.⁹⁰ Poland has adopted such an approach; its policy, at first glance, does not include provisions for the return of private property or compensation, but it does create the possibility for the restitution of religious buildings in kind.⁹¹

In some countries, in addition to the general legislative regulation of restitution, separate legal acts for the return of property with religious purposes have been specifically created. This legislation is clearly part of the state restitution policy; however, this practice, which is employed by the Czech Republic, for example, underscores the importance of returning religious buildings to their historical and confessional owners.⁹²

⁸⁸ Norkus 2023, 102.

⁸⁹ Ortiz 2000, 338.

⁹⁰ Csongor 2009, 217.

⁹¹ Ibidem, 234.

⁹² Minarik 2017, 462.

Similar to Georgia, Romania had experience initiating the restitution process even before the dissolution of the Eastern Bloc, as “in the initial stage, restitution in Romania proceeded outside the legislative framework, through the resolution of individual cases, including with court involvement.”⁹³ Romania’s experience is also relevant to Georgia because the participation of the dominant religious group – the Orthodox Church – significantly delayed the establishment of an equitable restitution policy.⁹⁴

The formation of an equitable restitution policy accompanies the process of democratisation in all countries; however, in post-communist countries, this process has been considerably more challenging owing to the significant influence of dominant religious groups on society. The analysis of the Georgian context reveals that decisions regarding the restitution of religious buildings, as well as many other issues related to freedom of religion, were made by the state without thoroughly examining the issue of church ownership. Georgia can still adopt similar approaches to those used in the Baltic countries and Romania, even at this stage, as the issue of restitution has not been concluded, the dissatisfaction of minority religious communities continues to grow, and the discriminatory nature of religious property return remains unaddressed. The issue of disputed property claimed by the Orthodox Church should be legally resolved under judicial supervision through the active engagement of a parity commission that is composed of representatives from both churches and the state. In this or any model, the active involvement of the state and political will are decisive in fairly resolving the issue of disputed church attribution, preventing further escalation of the matter, and optimally balancing the interests of all stakeholders.

Conclusion

The restitution of religious edifices in Georgia constitutes a multifaceted intersection of historical justice, religious liberty, and property rights that remains fundamentally unresolved. The discriminatory framework governing religious property restitution – wherein the Georgian Orthodox Church receives preferential treatment, while other religious communities encounter systemic impediments – fundamentally contravenes Georgia’s constitutional guarantees and international human rights commitments. This research demonstrates that the current policy architecture fails to establish transparent methodologies for determining the confessional provenance of structures, which is particularly evident in the case of the six disputed Catholic churches. The absence of comprehensive legislative provisions addressing communal property restitution, coupled with restricted access to archival repositories, has generated a profoundly inequitable system that perpetuates historical injustices rather than remedying them.

⁹³ Zviadadze et al. 2020, 114.

⁹⁴ Lavinia, Turcescu 2011, 28.

Drawing from a comparative analysis of the successful restitution models implemented in post-communist states, particularly those in Estonia and Poland, and subsequent developments in Romania, Georgia could establish a more balanced approach through three critical policy interventions. First, comprehensive legislative reform introducing the juridical concept of communal property with precise identification criteria and procedural safeguards is essential. Second, the establishment of an independent parity commission comprising representatives from religious communities, legal scholars, and governmental officials would facilitate objective determinations of historical ownership under judicial supervision. Third, the expansion of archival accessibility and implementation of transparent documentation protocols would enable evidence-based restitution determinations rather than politically motivated transfers.

The resolution of disputed religious building ownership, particularly the six Catholic churches currently under Orthodox administration, requires political resolve and institutional commitment to religious pluralism. Beyond the legal frameworks elucidated, Georgia must recognise that meaningful restitution policy not only represents a property transfer mechanism but is also an indispensable component of democratic consolidation, cultural heritage preservation, and religious freedom protection. The transformative potential of equitable restitution extends beyond individual structures to fundamental questions of national identity, historical reconciliation, and Georgia's aspirations for European integration.

International actors, including the Holy See, have consistently emphasised that equitable restitution policies signify democratic maturity. Georgia's continued failure to address these issues systematically undermines its democratic credentials and exacerbates religious tensions between the dominant Orthodox Church and religious minorities. Therefore, implementing the proposed reforms would not only fulfil Georgia's human rights obligations but would also strengthen social cohesion by acknowledging the diverse religious heritage that constitutes an integral dimension of Georgia's cultural identity.

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