



# The jury – A comparative legal analysis of Georgian and Irish legislation

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## ABSTRACT

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The jury is critical to the establishment of democratic government across the world. Community engagement in the legal system is one of the most successful and intriguing strategies that has been in use for many years in many nations throughout the world. Despite the favorable aspects, there are a few little details that might be problematic.

The paper's focus is on the jury systems in Georgia and Ireland. Ireland and Georgia belong to distinct legal families; in specifically, Georgia is a civil law country with a codified legal system, whilst Ireland is a common law country with a case-law-based legal system; this makes for an intriguing comparative legal analysis.

The study examines the historical origins of the jury trial across the world; the historical backdrop of the establishment of a jury trial in Georgia and Ireland; and the historical background of the establishment of a jury trial in Georgia and Ireland. The focus was on the defining elements of the two-state approach, after which recommendations were produced to strengthen both states' regulation; also, the attention was on the deficiencies of the institute of jurors, which is still an issue today. The author's position was developed to resolve issues and enhance the system.

Systematic, analytical, comparative legal, historical, and logical methodologies were used to conduct the research.

The purpose of this study is to analyze theoretical and practical materials to emphasize the importance of the jury in both Ireland and Georgia.

# INTRODUCTION

A juror is a chosen person who is responsible for our property, our dignity, our life, and our soul. In a word, he is responsible for our humanity. He is the face of the whole nation.<sup>1</sup> The jury trial is today one of the most common and effective models of litigation in common court countries. The paper will review exactly that jury trial. The main purpose of this paper is to discuss the legislative regulations of Georgia and Ireland in a comparative legal context, which regulates the stages of the jury process. For the purposes of this paper, only problematic issues that are regulated differently in the named states will be discussed. After discussing the problematic concepts, possible perspectives for solving them will be suggested. Before achieving the main goal, the general history of the origin of jurors will be reviewed and their role in the formation of a democratic and humane society will be analyzed; In the context of the paper, we review the practice of the European Court of Human Rights, which will make the review process more interesting and diverse; The paper will also discuss the case law of the developed world, with a special focus on American case law, which is relevant and necessary in the process of argumentation and reasoning; At the end, the position of the author in the context of the discussed topic will be proposed as a conclusion.

## 1. THE ORIGINS OF THE JURY TRIAL

### 1.1. The First Jury Trial Model in the World

Jurors have long been involved in the administration of justice. The Institute of Jurors got its start in England. "The jury is the beauty of English law," said Sir William Blackstone, a famous scholar of English law, and *"it is a great dividing line between the power of the monarch and the freedom of the people"*.<sup>2</sup> Nonetheless, most experts agree that England was the jury's birthplace since it was here,

in the 11th century, that the jury was formed in its classical form.

A regulation was enacted in Norman-conquered England in 1066 that required everyone to swear the truth (the word "jury" comes from the Latin word "jurare", which means oath). Initially, in England, jury members were responsible not only for their functions as judges, but also for being informers, witnesses, and in some cases prosecutors.<sup>3</sup>

The Magna Carta Libertatum was issued in England in 1215, during the reign of John Landless, and had a significant impact on English constitutional law.<sup>4</sup> The Great Charter of Liberty declared that every noble, if free man, should be judged on an equal basis, legitimately and proportionately, which clearly had a significant influence in the continued development of the institute of jurors.

Twelve jurors refused to acknowledge William Penn and William Mede as conspirators in 1640. The jurors were punished and imprisoned for two nights without food or drink. In a landmark ruling, the Lord Chief Justice (Sir John Vaughan) decided that no jury can be penalised for its conclusion. The Bushell case is one of the most well-known and significant rulings in the field of jurors.<sup>5</sup>

The jury, influenced by England, first extended to the English colonies, then to the countries of continental Europe in the nineteenth century.<sup>6</sup> Scholars explain the spread of English law in other nations to a variety of factors and events.<sup>7</sup> The British Empire had a significant effect on the establishment of juror institutes in a number of nations. The Institute of Jurors was established throughout the British Empire's colonies under the influence of the British Empire.<sup>8</sup> For example, the establishment of jurors in Virginia (1606), Massachusetts (1628), and New York (1664) was the first instance of the institution of a jury in British colonial areas. The institute of

1 Gogolashvili, J., (2019). Comparative Legal Analysis of the Jury Court, Tbilisi, p. 7.

2 Burnham, W., (2003). Introduction to the Law and Legal System of the United States, Third Edition, p. 86.

3 Buadze, K., (2014). Some topical issues of the Institute of Jurors and the plea agreement under the criminal procedure legislation of Georgia, Kutaisi, p. 10.

4 Spooner, L., (1852). An Essay on the Trial by Jury, Boston.

5 John A., (1986). Phillips Thomas C. Thompson, Jurors v. Judges in Later Stuart England: The Penn/ Mead Trial and Bushell's Case, Minnesota, p. 189.

6 Yorhend, L., & Tsikarishvili, K., (2009). Court of Jurors, Review of Western Systems, Tbilisi, p. 14-14.

7 *Ibid.*, Vol. IV, 349.

8 Vogler, R., (2001). The International Development of the Jury: The Role of the British Empire; 72 International Review of Penal Law, p. 525.

jurors was abolished in certain situations, such as India and Pakistan, as soon as they obtained independence from the empire.<sup>9</sup>

## 1.2. The History of Juries in Georgia

The Statute of the Judiciary of September 21, 1917 was the first piece of legislation to mention the Institute of Jurors. Only on January 17, 1919, when Parliament enacted a laconic statute on the "introduction of a jury trial," did the so-called law take effect. It mandates that the Ministry of Justice establish a list of potential jurors.<sup>10</sup> By June 1, 1919, the Ministry was supposed to be finished with its project. The formation of the Senate in July 1919 marked a significant milestone in judicial reform.<sup>11</sup> The Senate's role was to monitor the law's implementation. Several trials have already taken place as a result of the new law. The 11th Red Army captured Georgia's capital on February 25, 1921, ending three years of Menshevik control. The constitution was overturned by the army, and the jury trial, like many other aspects of Georgia's judicial system, went down in history.<sup>12</sup>

In Georgia, the jury trial was reintroduced in two stages for the second time. In the first phase, an amendment to Georgia's Constitution was enacted in 2004, establishing a jury court, though its implementation was delayed until relevant legislation was passed; in the second phase, a new Criminal Procedure Code was enacted in 2010, clarifying the rules for the use of the judicial institution. Lawyers, attorneys, and judges were being taught in regard to the new institution at the time of its establishment. Finally, in Georgia, a jury court has only been in operation in criminal trials since 2010.

9 Park, R. Y., (2010). The Globalization of the Jury Trial: Lessons and Insights from Korea, *American Journal of Comparative Law*, p. 3.

10 Law of the Parliament of Georgia and the Republic of Georgia of January 17, 1919 "Introduction of Jurors", Collection of Laws and Government Decrees, Part I, Issue of the Codification Department of the Ministry of Justice, 1919, N1 (January 31).

11 Georgia Law on the Senate and the Statute of the Senate, July 29, 1919, Publication of the Codification Department of the Ministry of Justice, N13, September 15, 1919.

12 Jones, S., (1988). The Establishment of Soviet Power in Transcaucasia: The Case of Georgia 1921-1928, *XL SOVIET STUDIES* 616, 616.

## 1.3. The History of Jury Trials in Ireland

The history of jury trials in Ireland is similar to that of England and Wales. Beginning with the Anglo-Norman invasion in 1169, the English common law tradition progressively displaced the native custom-based Breton law system, and by the end of the seventeenth century, the common law tradition had been firmly entrenched throughout the nation.<sup>13</sup> In Ireland, jury trials have frequently had to work in a tumultuous culture. The jury system was put to a lot of pressure throughout the eighteenth and nineteenth centuries, when there was a lot of bloodshed and sectarian tensions. Intimidation of both jurors and witnesses, antagonism toward the state, intimate communal links between jurors and accused, and juror sympathy with accused all contributed to major difficulty in achieving convictions at different times and in different regions of the country. That is why Evidence shows that conviction rates in Ireland were lower than in England and Wales for all types of crimes in the second part of the nineteenth century.<sup>14</sup> As a result of these issues, prosecutors used a variety of strategies to guarantee that defendants were found guilty. One method was to try offenses without a jury as often as possible, for example, by extending the authority of summary courts and using non-jury trials.

Where a jury trial could not be avoided, the Crown used a number of more subtle measures to guarantee that criminals were punished. The use of the Crown's right to ask potential jurors to stand-by, the shifting of cases to various sites to avoid local biases, the appointment of "special jurors," and the lessening of charges to get defendants to plead guilty were all examples of such techniques.

When the Juries (Ireland) Act 1871 went into effect in 1873, these types of issues were considerably lessened. This Act established an alphabetical rotation system for jury duty, which greatly limited the sheriff's authority in appointing the jury.

When discussing the Irish Jury, it's important to remember the 1976 Juries Act, which was vital for

13 Sally Lloyd-Bostock and Cheryl Thomas, *Counting the Cost of Conscience: Juries and Jury Reform in England and Wales*, LAW AND CONTEMPORARY PROBLEMS, Forthcoming.

14 Johnson, D., (1996). Trial by Jury in Ireland 1860-1914. *17 LEGAL HISTORY* 270 at 273-7.

the country. The jury trial in Ireland was fully fixed and controlled on the basis of this legislation, which assumed the most flawless shape imaginable. It's worth noting that Prior to the Act's implementation, jury service was only available to residents who met specified property requirements. Women were exempt from jury duty, but not disqualified on the basis of their gender, as is sometimes assumed.<sup>15</sup> In *de Burca v Attorney-General*, the legitimacy of these agreements was successfully challenged. The property criterion was found to be unlawful by all five members of the court. Two of the judges concluded that it amounted to invidious discrimination and thereby breached Art.40.1's equality requirement. Two others held that it resulted in a lack of representativeness that went so far as to violate the right to a fair trial protected by Art.38.1. The fifth member agreed without offering an explanation. The effective exclusion of women was declared to be illegal by four members, partially due to inequity and partly due to a lack of representativeness.

This statement represents the earliest distinction between old Irish legislation and the Georgian model. In Georgia, there were no property restrictions while choosing a jury. Women were allowed to take part in the jury trial without restriction. Unfortunately, Georgia lost its independence after the Russian army invaded, delaying the development of a number of processes in the country.<sup>16</sup>

## 2. SPECIFIC CHARACTERISTICS OF A JURY TRIAL IN IRELAND AND GEORGIA

### 2.1. Redistribution of Work Among Judges and Jurors

We should concentrate on the component of work redistribution between judges and jurors after analyzing the historical context. Following an analysis of the legislative histories of Ireland and Georgia, we can conclude that the two countries have a similar standard in this area, with no notable differences. The judge acts as an umpire or referee, while the jury is the entity in charge of making

all factual determinations. Georgia and Ireland the parties set the boundaries of the dispute under an adversarial system, and the decision must be determined based on the evidence and motions offered by the parties throughout the trial. As a result, the judge is responsible for ensuring procedural propriety and fairness between the parties, while the jury is responsible for arriving at a decision in the form of a judgment. All contested evidentiary admissibility problems are decided by the court. Once evidence has been allowed, the jury must decide how much weight to give it. If it is alleged that evidence was collected in violation of the accused's constitutional rights, the judge must consider, in a trial within a trial, whether the evidence was obtained in violation of the accused's constitutional rights and whether it should be included or excluded under the law. It has been stated that judges are more qualified to decide factual concerns such as those coming from identification evidence and expert testimony, but juries are better suited to decide credibility issues.<sup>17</sup>

### 2.2. The Group of People Who Can Serve as Jurors

The 1976 Act abolished all forms of discrimination based on race, religion, or gender, and merely stated that, subject to certain exclusions, any citizen who is at least 18 years old, under the age of 65 and is listed on the Dáil electors' register is qualified to serve on a jury.<sup>18</sup> The Juries Act 1976 defines the circle of persons who cannot be jurors.<sup>19,20</sup>

15 O' malley 807.

16 Nachkebia, G., Lekveishvili, M., Shalikhshvili, M., Ivanidze, M., Tumanishvili, G., Gogniashvili, N., & Bokhashvili, N. (2013). *Juror Institute in Georgia*, Tbilisi, p. 20.

17 Jackson and Doran, (1997). "Judge and Jury: Towards a New Division of Labour in Criminal Trials", 60 M.L.R. 759.

18 The Civil Law (Miscellaneous Provisions) Act 2008, on the other hand, eliminated the maximum age limit, making all citizens aged 18 and above eligible for jury duty unless excluded or disqualified.

19 Juries Act 1976, First Schedule, as amended by Civil Law (Miscellaneous Provisions) Act 2008, s.64.

20 Judges and former judges; coroners; practicing solicitors and barristers; persons, including apprentices, working in solicitors' offices; members of the Garda; members of the permanent defense forces; staff of the probation and welfare service; court employees and others are among those who are ineligible. Individuals with certain disabilities are also disqualified. Persons who are unable to read or who have a lasting handicap that makes performing the responsibilities of a jury impossible are unable to serve as jurors. All members of either House of the Oireachtas, all people in holy orders and sworn members of religious organiza-

Interesting case law has been observed in Ireland. For the first time in November 2010, the High Court determined that a deaf individual can serve on a jury. Despite requiring the assistance of a sign language translator, the severely deaf man was allowed to serve on a jury. In the past, there has been a concern regarding a sign language interpreter serving as an extra juror in the jury chamber. Arguments were made that this would jeopardize the jury room's confidentiality. The High Court stated that concern about the 13<sup>th</sup> juror might be addressed by the sign language interpreter swearing a non-disclosure oath, with the jury's foreperson guaranteeing that the interpreter is limited to interpreting what was said.<sup>21</sup>

In the Independent Republic of Georgia, like in Ireland, a candidate over the age of 18 is elected from the electoral list, who has not yet reached the age of 65. Articles 29 and 30 of the Criminal Procedure Code of Georgia define the circle of persons who cannot be a juror.<sup>22</sup>

Georgian law does not allow a deaf person to be a juror. It would be advantageous for the Georgian legislation to share the Irish approach.<sup>23</sup>

There is an opinion that the pool of potential jurors should, without a doubt, be as large as possible. Following the Auld Report's recommendations, English legislation has recently been altered to allow nearly anybody to serve on juries, including police officers and attorneys. The Court of Appeal dismissed three appeals against conviction in *R. v Abdroikov*. A police officer was on the panel in two instances, while a Crown Prosecution Service counsel was on the jury in the third.<sup>24</sup>

It should be noted that such an expansion of the jury circle will not be result-oriented. A police officer working for a government agency may be biased.

The same is true of a lawyer who is an insightful person in the field. Therefore, the existence of this kind of regulation should not be considered justified.

## 2.3. The Number of Jury Members

A jury is made up of 12 people who are at least 18 years old and whose names are on the voter list. It is not established what caused the election of specifically 12 jurors. When the United States Supreme Court looked into the subject in 1970, they could only come to the conclusion that the number was set primarily by chance.<sup>25</sup>

In Ireland the Juries Act of 1976 stipulates a 12-member jury in Ireland, while the Constitution makes no such provision beyond requiring a jury trial. The constitutional requirement "is not a guarantee that juries must always consist of twelve individuals, neither more nor less, or that the decision must be unanimous," according to Walsh J. in *De Burca v Attorney-General*<sup>26</sup>. If a juror dies or is released by the court during a trial for sickness or another valid reason, the jury is presumed to be properly formed unless the judge instructs otherwise, or the number of jurors falls below 10.<sup>27</sup>

According to Article 27 of the Criminal Procedure Code of Georgia: A jury shall be composed of 12 jurors and 2 substitute jurors, except for cases specified in this Code. A jury shall be composed of at least six jurors for cases of less serious crimes; – of at least eight jurors, for cases of serious crimes; – and of at least ten, for cases of particularly serious crimes.<sup>28</sup>

Unlike Ireland, the Criminal Code of Georgia sets a different threshold for the number of jurors for crimes of varying severity. Every category of crime has a different complexity, so it is not justified to approach all categories of crime with the same standard. Therefore, it would be better for the Irish legislature to consider the Georgian model.

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tions, as well as practicing doctors, dentists, nurses, midwives, veterinary surgeons, and pharmaceutical chemists, are all exempt as of right.

21 Jury Service Law Reform Commission Report 2013, p. 91.  
22 A person may not participate in a criminal trial as a juror if they are a state-political official; an investigator; a policeman; a clergyman; a psychologist; a Psychiatry; a lawyer; a participant in the criminal proceedings in the mentioned case; is accused; Enlisted in the Georgian Armed Forces and has such a limitation of ability as to prevent him from performing his duties as a juror.

23 Citizen of Georgia Anna Jalaghonias v. Parliament of Georgia.  
24 Auld, Review of the Criminal Courts of England and Wales (Stationery Office, London, 2001), Chap.5.

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25 *Williams v Florida* 399 US 78 (1970).

26 Walsh J. in *De Burca v Attorney-General* [1976] I.R. 38 at 67.

27 O'Malley, *The Criminal Process*, 1st Ed. 2009 20-35.

28 Criminal Procedure Code of the Independent Republic of Georgia <<https://matsne.gov.ge/en/document/view/90034?publication=137>> [Last seen: 10 June, 2022]

## 2.4. Disqualified Jurors

In the case of Ireland if a person has been convicted of a major crime in Ireland, has served a previous term of 5 years or more in prison, has served three months in jail in the preceding 10 years, or is residing in Ireland but is not an Irish citizen, they are normally disqualified to serve on a jury in Ireland.<sup>29</sup>

According to Article 30 of the Criminal Code of Georgia, a Human being has no right to be a juror unless the person is a citizen of Georgia; If they are a person, on whom an administrative penalty has been imposed for abusing narcotic drugs in small quantities, and less than one year has passed since the moment when the administrative penalty was imposed on them and if a person has been convicted.<sup>30</sup>

It should be noted that the record according to which a person sentenced to three months imprisonment for the last ten years does not have the right to be on a jury is too harsh. The Georgian model should also be critically evaluated, which deprives anyone who has ever been convicted of the opportunity to be on a jury. Such a strict restriction is not justified in the case of either Georgia or Ireland. A much more liberal attitude would be relevant and result oriented, because it is absurd to deprive someone of their right to serve on a jury for such a small offense.

## 2.5. The Avoidance of Jury Candidates

In the case of Georgia, if the charge is punishable by life imprisonment, each party is entitled to file 10 unsubstantiated evictions. In other cases, the parties have the right to avoid 6.<sup>31</sup>

Like Georgia and Northern Ireland, but unlike England and Wales, in the Republic of Ireland both the defense and the prosecution have the right to question up to seven jurors without cause. Each defendant has the right to challenge seven prospective jurors without reason in a case involving

several co-defendants, while the prosecution has the right to challenge no more than seven jurors, regardless of the number of co-defendants.<sup>32</sup>

In Georgia and Ireland, it is permissible to avoid a jury without cause. Avoidance without cause delays the jury selection procedure. For example, the existence of this type of mechanism in Georgia allows the defense to obstruct the process. England, Wales, and the United States have no unreasonable avoidance at all. As the legislature has found that this helps to delay the process. That is why it should be justified to abolish the institution of avoidance without cause in both Georgia and Ireland.

## 2.6. The Social Guarantees of Jurors

According to Article 28 of the Criminal Code of Georgia: Jurors have the right to be timely indemnified by the State for all the expenses that are directly related to the performance of their duties. The amount of compensation for daily allowances, travel expenses and other direct expenses shall be determined by the High Council of Justice of Georgia.<sup>33</sup>

In Ireland, Jury duty is not a right, but a civic responsibility. Jurors are not compensated for their time on the jury, and they are not reimbursed for their travel expenses. On the days of the trial, lunch is provided; In Ireland, self-employed jurors may ask to be excused from service because they will be unable to make a living. People receiving Job-seeker's Allowance will continue to be paid, but they must notify their local office. Persons in employment – including temporary, contract, or gig economy employees – must be permitted to serve on juries and are entitled to be compensated by their employers during this time.<sup>34</sup>

In view of the above, it should be considered that Irish legislation needs to be refined and regulated. It is critical that jurors be urged to do their civic duty, and that any disadvantages be minimized to the greatest extent feasible. According to the Georgian legislation, transportation for jurors is reimbursed,

29 O'Malley, *The Criminal Process*, 1st Ed. 2009, 20-14.

30 Chachua, F., (2005). Student Forum, Basic Trends in the Origin and Development of Jurors, *Georgian Law Review*, 8, p. 4.

31 Diasamidze, F., (2020). Overview of the Jury Judicial System in Georgia and Ways to Improve It, Tbilisi, p. 323.

32 Katie Quinn, *Jury trial in republic of Ireland*, p. 205.

33 Criminal Procedure Code of the Independent Republic of Georgia, Article 28. <<https://matsne.gov.ge/en/document/view/90034?publication=137>> [Last seen: 10 June, 2022]

34 Jury Service Law Reform Commission Report (2013), p 113-114.

there are additional benefits for food and accommodation for jurors.<sup>35</sup> There are provisions in England and Wales for the payment of juror allowances, as well as for the payment of travel costs and sustenance.<sup>36</sup>

## 2.7. The Verdict Passed by the Jury

According to the Criminal Procedure Code of Georgia, jurors make a verdict unanimously, but if the jury fails to arrive at a unanimous decision within 4 hours the decision shall be made within the next 8 hours with the following majority of votes: if the jury is composed of at least 11 jurors, the judgment shall be delivered with 8 votes; if the jury is composed of 10 jurors, the judgment shall be delivered with 7 votes; if a jury is composed of 9 jurors, the judgment shall be delivered with 6 votes; if a jury is composed of 8 jurors, the judgment shall be delivered with 5 votes; if a jury is composed of at least 7 or 6 jurors, the judgment shall be delivered with 4 votes.<sup>37</sup> If a guilty verdict is rendered, the chief juror names the number of jurors who have found the person guilty. The interesting thing here is that if a person is found not guilty by a jury and the decision is made by a majority, the jury still names the number of jurors who have found the person guilty.

The procedure for passing a verdict in Ireland concerns the Criminal Justice Act 1984. Section 25 of the named Act focuses on a unanimously adopted verdict. When the jury is initially sent out to think out, they are told that they must come to an agreement on a decision. This is referred to as a unanimous decision. Furthermore, Section 25 (3) specifies that a majority verdict will not be accepted until the jury has considered it for at least two hours. The court can accept a majority decision after that period has passed.<sup>38</sup> If the jury finds the person guilty and the verdict is accepted by a majority, the chief juror must record the number of jurors who agreed with the verdict. If the jury found the person not guilty, then the foreperson delivers the result in open court

but does not specify whether the not guilty finding was reached unanimously or by a majority.<sup>39</sup> Prior to the announcement of the verdict, obviously, the process must be impartial.<sup>40</sup> Much attention is paid to the importance of judicial neutrality in summing up the evidence.<sup>41</sup>

In Georgian law, the procedural issues of a verdict passed by a majority of jurors are more clearly formulated than in Irish law. Therefore, it would be better to share the Georgian model in the Irish legislative framework. As for the issue of declaring a verdict. In this part, Georgia should share the existing record in the Irish legislation. When a person is acquitted, the jury should not state that the decision was made unanimously or by a majority. The public should not be left in doubt about the guilt of the accused.

## 2.8. Influence of the Media on Jurors

Jurors can also be greatly influenced by the media. It is easy for non-professionals to create a mood and form an opinion in favor of prosecution or defense.

The case of Roco Wanninkhof's Murder<sup>42</sup> is an excellent illustration of the media's and the public's impact on jurors. The incident took place in southern Spain in 1999. 19-year-old Rocío Wanninkhof was killed. Police identified Dolore Vasquez as a suspect. The case was heard by a jury. The suspect presented a solid alibi to prove innocence. He was at home with the deceased's mother at the time of the murder and even called the victim several times on the phone, which was confirmed by the telephone company. The process took place at a time when the media was paying too much attention to the individuals involved in the case and the murder, and the public was demanding a timely resolution of the case. Due to the influence of the media and the public, the jury found the suspect guilty. Dolores

35 Rekhviashvili, T., (2010). Court of Jurors, Tbilisi, p. 16.

36 *Ibid.*, p. 147.

37 Criminal Procedure Code of the Independent Republic of Georgia, Article 261. <<https://matsne.gov.ge/en/document/view/90034?publication=137>> [Last seen: 10 June, 2022]

38 Section 25 Criminal Justice Act 1984.

39 Sally Lioyd-Bostock Theryl Thomas, decline of the "Little Parliament", *Juries and Jury Reform in England and Wales*, 62 *Law & Contemp. Probs.* 7, 36-37 (Spring 1999).

40 *People (DPP) v. Nevin* [2003] 3 I.R. 321 at 327-348.

41 Royal Commission on Criminal Justice, Report Cmnd 2263 (HMSO, London, 1993), p.124.

42 Barata, F., (2019). *The Media and Crime Information the Tony King Case and Media Distortions*, p. 1.

Vasquez was released from 17 months in prison when police found the real killer.

Mechanisms for Protecting Jurors from Media Impact Defined by the Supreme Court of the United States in the high-profile case: "Sheppard v. Maxwell."<sup>43</sup> Mechanisms for protecting jurors from media influence are: 1. Transfer the case to another place; 2. Suspension of the case; 3. Pre-interrogation of a potential arbitrator by a judge or a party to determine whether he or she is qualified or eligible to serve as a juror (*voire dire*); 4. The judge's instructions to the jury; 5. Closing the jury, which refers to the isolation of a jury from the public during the process. It takes place in a hotel, outside the courthouse, where jurors are provided with food.

Mustafa Kamal v. the United Kingdom,<sup>44</sup> Middleton v. the United Kingdom,<sup>45</sup> Sutyagin v. Russia<sup>46</sup> and Abdulla Ali v. the United Kingdom<sup>47</sup> are four notable cases involving media impact on jurors that had been heard by the European Court of Human Rights. In none of the cases, – did the Court find a breach of Article 6 of the Convention. The Strasbourg court found that the media's unfavorable coverage of the cases did not have negative impact on the jury's verdict, therefore the case of the applicant was not handled unjustly

It should be noted that the above-mentioned pre-conditions are actively used in the courts of Georgia and Ireland when we are talking about a jury trial, which is why it is possible to avoid the complications that may arise from the intervention of the press. However, it would be better to formulate this type of standard separately and make an additional entry in the legislation.

## 2.9. Nullification of Jurors

In a jury trial, there is a possibility that persons elected as jurors would demonstrate solidarity or other reasons in favor of the accused or vice versa, despite the facts. Nullification is the term for

43 Sheppard v. Maxwell, 384 US 333 (1966).

44 Mustafa Kamal v. The United Kingdom, [2011] no. 31411/07, ECHR.

45 Middleton v. The United Kingdom, [1996], no. 23934/94, ECHR.

46 Sutyagin v. Russia, [2008], no. 30024/02, ECHR.

47 Abdulla Ali v. The United Kingdom, [2015], no. 30971/12, ECHR.

this phenomena. The verdict's irrationality provides them with enough chance to do so. As a result, an unprofessional juror has the opportunity to make a deliberate baseless conclusion throughout the process of balancing truth and norm. Making an incorrect decision to destroy a career can be costly for a professional judge.

If a jury can only decide a person's guilt or innocence based on conscience, the judge's inner faith must be founded on facts and law, increasing the judges' feeling of responsibility. Of course, jurors can make mistakes as non-professionals, especially when a professional judge makes a legal error, but unlike judges, jurors have no need to explain a verdict.<sup>48</sup>

In the history of a jury trial, there are several examples of nullification. The California People v. Simpson case was one of the most well-known. A black jury in the United States found in Simpson's favor in 1995. No proof of Simpson's guilt in the murders of his wife and lover was considered by the judges. A California Civil Court has already decided on the fact of murder in a civil lawsuit involving the same person.

The threat of nullification occurs in both the Georgian and Irish models, but not because of wrong laws in either nations, but because of a flaw in the jury system in general. The only way out of this situation is to defend the jury's verdict, even if just to the minimum level.

## 2.10. The Substantiation of the Jury Decision

The European Court of Human Rights has reviewed the following instances in relation to the substantiation of the jury verdict: Taxquet v. Belgium [GC]<sup>49</sup>; Shala v. Norway;<sup>50</sup> R v. Belgium;<sup>51</sup> Zarouali v. Belgium;<sup>52</sup> Planka v. Austria;<sup>53</sup> Saric v. Denmark;<sup>54</sup> Papon v. France<sup>55</sup> and Bellerin Lagares v. Spain.<sup>56</sup>

48 Widman n. Jury Court, Law and Contemporary Problems 1999, p. 122.

49 Taxquet v. Belgium [GC], [2010] no. 926/05, EHRR.

50 Shala v. Norway, [2012] no. 1195/10, EHRR.

51 R v. Belgium, [1992] no. 15957/90, EHRR.

52 Zarouali v. Belgium, [1994], no. 20664/92, EHRR.

53 Planka v. Austria, [1996], no. 25852/94, EHRR.

54 Saric v. Denmark, [1999], no. 31913/96, EHRR.

55 Papon v. France, [2001], no. 54210/00, EHRR.

56 Bellerin Lagares v. Spain, [2003], no. 31548/02, EHRR.

In Belgium, in the famous Taxi case,<sup>57</sup> a Strasbourg court found it necessary to substantiate a jury verdict: "*National courts must present with sufficient clarity the reasoning on which their judgment is based.*" Opinions of third parties in the case were submitted by the Governments of the United Kingdom, Ireland and France. In the view of all three countries, the fact that the judgment given by the jury did not contain reasoning did not in itself contradict the European Convention.<sup>58</sup> It is noteworthy that, as some scholars believe, this decision may jeopardize the existence of a jury as it exists in England and other European countries.<sup>59</sup> One British researcher even said that "*the European Court of Human Rights has started to change the Magna Carta through Article 6, because it required jurors to substantiate their decisions*".<sup>60</sup>

Belgium has amended the Code of Criminal Procedure. The amendment relates to the requirement to substantiate a jury's decision, according to which, once a jury has rendered a guilty verdict, the judge and jurors must write reasoning for the decision (minimum standard).<sup>61</sup> As a result of the named decision, judges in France developed a specific mechanism to substantiate the decision. After a Taxquet case, a judge, after consulting with the victims, the prosecution, and the defense, formulated 16 questions for the jury so that their wording would be substantiated.<sup>62</sup>

The case-law of the European Court of Human Rights shows that a decision by a jury must be substantiated. In the event of a conviction, a person must know what and why he or she is being charged with a crime to be able to appeal the decision. It should be noted that the legislation of Georgia and Ireland needs to be refined in this regard. Irish and

Georgian lawmakers should consider the need for a minimum standard of justification.

## 2.11. Appeal of the Jury Verdict

The lack of appealability of an unfounded verdict is addressed by the jury verdict's details. It's hard to tell what facts and circumstances influenced the jurors' decision, what evidence they found trustworthy, or why they did so. This is not documented in any way. A judge in a professional court is obligated to make a reasoned decision. In such a circumstance, the erroneous judgment is made public, and the side has the right to appeal. The opposing party, or vice versa, is aware of the strength of the arguments against it. And having a method to appeal when there is no reasoned judgment is impossible. In some countries there is only the possibility to appeal the sentence. The right to appeal in the US is not defined by the Constitution. This right is defined only by the laws of individual states.<sup>63</sup>

In Georgia and Ireland, there is no right to appeal a jury judgment. Only if there was a major error in the jury's explanation, the verdict was based on a judgment delivered in violation of the law, the punishment is unconstitutional or clearly unreasonable or unjustified may a party appeal the conviction to the Court of Appeals at one time.

Every convicted individual shall have the right to have his or her accusations and conviction reviewed by a higher court in accordance with the law, according to the International Covenant on Civil and Political Rights.<sup>64</sup> Thus, a jury trial is in conflict with international standards.

## CONCLUSION

As a result of the presented analysis, both, similarities and differences between Ireland and Georgia regarding the jury trial were revealed. In the end, we can conclude that:

- In Georgia, deaf jurors should have the right to be elected as jurors in court.

57 Taxquet v. Belgium [GC], [2010] no. 926/05, Paragraphs 71-79, EHRR.

58 Yorhendi L., Tsikarishvili K., Court of Jurors. Review of Western Systems, Bona Causa, Tbilisi 2009 p. 69.

59 Roberts, P., (2011). Does Article 6 of the European Convention on Human Rights Require Reasoned Verdicts in Criminal Trials? *Human Rights Law Review*, N11(2) pp. 213-235.

60 Rhodes, D., (2010). Quixotic Endeavours, 154 *Solicitors Journal*, p. 6.

61 Roberts, P., (2011). Does Article 6 of the European Convention on Human Rights Require Reasoned Verdicts in Criminal Trials? *Human Rights Law Review* N11(2) pp. 213-235.

62 Hans, V., & Germaine, C., (2011). The French Jury at a Crossroads, Chicago – *Kent Law Review*, 762, Vol. 86:2.

63 Jones v. Barnes, 463 U.S 745, 103 S. Ct 3308, 77 L.Ed. 2d 087 (1983).

64 International Covenant on Civil and Political Rights. 1966. Article 14 (5).

- There should be no shared approach to broadening the criteria for admission to a jury. Police officers, lawyers and other persons provided by law should not have the right to be a juror.
- The Criminal Code of Georgia sets a minimum threshold for jurors in various degrees of crime. It would be good if the Georgian model was reflected in the Irish legislative framework.
- The existing record in the Irish model should be changed, according to which a person who has been sentenced to 3 months imprisonment for the last 10 years does not have the right to be a juror. The record in Georgian law should also be changed, which deprives anyone who has ever been convicted of the right to be a juror.
- In the case of both Georgia and Ireland, the mechanism of unreasonable avoidance of jurors should be abolished.
- In Ireland, it is necessary to enhance social guarantees for jurors in the same way as in Georgia.
- The procedural issues of a verdict passed by most jurors in Georgia are more clearly articulated than in Ireland. Therefore, it would be better to make an amendment in the Irish model.
- As for the issue of announcing a verdict, the Irish standard must be implemented in Georgian model.
- To avoid media influence, it is best to consider the case law of the European Court of Human Rights and the United States of America. Although this type of regulation exists in both countries, it would be better to make an additional entry into the law.
- According to the case-law of the European Court of Human Rights, the decision of the jury must be substantiated in both Georgia and Ireland (minimum standard).

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