

# Impact of the EU-Georgia Association Agreement on the Legal Order of Georgia

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## Abstract

The EU law as normative power is capable of affecting the legal order of non-member countries in different ways. This chapter addresses the commitments which Georgia has imposed on itself, be that on the basis of unilateral acts or in the framework of an international agreement, and are aimed at approximating the Georgian law to that of the EU. Obviously, in this sense, commitments undertaken under the EU-Georgia Association Agreement are of great significance. The chapter explores Georgian approach to the EU law which is reflected in unilateral acts adopted by the Georgian lawmaker. Furthermore, particular attention is given over to commitments assumed under the EU-Georgia Association Agreement, especially to preserve and respect common values and to approximate Georgian laws to EU norms. It is argued that the EU law will be—especially through the Association Agreement—a decisive factor in the further development of the Georgian legal order.

**Key Words:** EU, Georgia, association agreement, national positioning, approximation mechanisms.



## Introduction

The European Union—Georgia Association Agreement<sup>1</sup> (EU-Georgia AA) as the current legal framework of relations between Georgia and the European Union is the document on which the implementation of the approximation process is based. It was signed on June 27, 2014. The provisional application of substantial parts of the Association Agreement started on September 1, 2014 and it fully entered into force on July 1, 2016.

Since then, Georgia has amended quite a number of legislative acts within the framework of legal approximation or adopted new acts to this end. In particular, within the period of three years, 6 new laws have been adopted. Up to 70 laws have been amended and up to 24 by-laws have also been issued. These measures were

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<sup>1</sup> European Union—Georgia Association Agreement, GOJ, 2014, L 261.

implemented with the objective to approximate Georgian legislation with nearly 60 items of European legislation.<sup>2</sup>

The concrete scope of the impact of the EU-Georgia AA on the Georgian legal order can be measured by identifying all those acts which are or will be amended or adopted in the course of implementation of the EU-Georgia AA. However, this article addresses those effects on the Georgian legal system which are rather general in nature.

The present contribution explores normative framework existing on both unilateral and bilateral levels, which opens different possibilities for the legislative impact of the EU law on the Georgian legal order. For this purpose, national legal norms defining the position of the Georgian legislation towards the EU law will be discussed and the content of obligations to approximate legislation deriving from the EU-Georgia AA as well as the scope of these obligations will be examined.

### National Positioning Towards EU Law

Taking into consideration that the EU-Georgia Partnership and Cooperation Agreement (PCA) entered into force in 1999, the very first act defining the positioning of the Georgian legislation towards the EU law is a Resolution of the Parliament of Georgia made on September 2, 1997. According to it, “with a view to ensuring the enhancement of the process of Georgia’s integration into the European international institutions, approximation and harmonization of legal systems, compatibility of Georgian law with the EU principles, all the laws and other normative acts adopted by the Parliament of Georgia starting from September 1, 1998, should be compatible with the standards and norms of the EU.”<sup>3</sup> This wording leaves no room for doubt that, with this decision, the Georgian Parliament was entering into a commitment to pursue dynamic approximation of Georgian law to that of the EU. Furthermore, it defined voluntary subordination of national norms to the legal order of an international organization while not being a member of it and not even having special legal links to it. Such an ambitious goal may be explained by political and legal naivety as it was not taking into account neither the constitutional and political reality nor the complexity of the approximation process. Logically, the importance of this resolution of parliament remained only within limits of a political wish and has not played any role in the legislative process.

Less politically ambitious yet legally more effective, although not substantially, have been the further actions taken by the Georgian Parliament with the aim to express the special attitude towards EU law. Specifically, according to Article 17 of the Law of Georgia on Normative Acts of October 22, 2009, a draft law submitted to

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2 “Implementation of the EU-Georgia Association Agreement and Association Agenda 2014–2017,” Office of the State Minister of Georgia, July 2017, accessed December 23, 2018, [http://www.eu-nato.gov.ge/sites/default/files/400%20CALI\\_New\\_Action%20Plan%20ENG%202107%20axali.pdf](http://www.eu-nato.gov.ge/sites/default/files/400%20CALI_New_Action%20Plan%20ENG%202107%20axali.pdf).

3 Resolution of the Parliament of Georgia “On the Harmonisation of Georgian Legislation with that of the EU,” September 2, 1997, No. 828-Is.

the Parliament of Georgia should be supplemented by an explanatory note, which should describe the relation of the draft law concerned to the EU directives along with the general information about the draft law. The same provision was included into the Rules of Procedure of the Parliament of Georgia on February 17, 2004 then in force and was subsequently adopted on June 22, 2012.<sup>4</sup> The main difference between the aforementioned acts from the Parliamentary Resolution of 1997 is that they do not require the compatibility of Georgian law with the rules of the EU, but rather the information concerning compatibility. However, their content also gives rise to certain questions. For example, why, from the EU legal acts, is the reference made only to the directives? Would it not have been more reasonable or correct to require the information on the compatibility with the whole *acquis*?

Nevertheless, these provisions could not be seen as efficient. There are no official statistics, detailing how many explanatory notes for draft laws reported the incompatibility of a draft law with the EU directives. However, in almost all cases, the sentence included in the explanatory notes under the relevant point is rather formulaic claiming compatibility of the draft law with the EU directives.

It would make sense to make an amendment to the Law on Normative Acts and request information not only on compatibility of the draft law with EU directives, but also on concrete EU legal acts with which it is compatible. In general, more information should be provided about compatibility. Actually, this will not increase the workload of the authors of the draft law as they are even under the current legislation obliged to assess the compatibility so that they can easily describe what they mean in a concrete manner.

Not only are the above-mentioned efforts with regard to approximation troublesome in implementation, they also seem to be problematic from the legal point of view as well. The obligation to harmonize the Georgian legislation with the EU directives also implies the obligation to reflect any future amendments to the directives in the Georgian legislation as well. As a result, the domestic legislation is not only subordinated to the provisions that are known to it (provisions of the directives already in force), but also to the provisions which could be adopted by the lawmaker within the framework of the different legal order. The Constitution of Georgia does not provide for such possibility of delegation of sovereign rights and ranks Georgia's international treaties lower than the Constitution of Georgia.

## **Influencing the Georgian Law Through Contractual Commitments**

The EU-Georgia AA is a voluminous document with about 1,000 pages. It provides for the approximation of Georgian laws with nearly 300 acts of EU law. In general, the agreement is one of the new generation of Association Agreements concluded by the European Union. It aims at establishing a unique model of political and economic

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4 Article 145 (2) of the Rules of Procedure of the Parliament of Georgia.

integration.<sup>5</sup> The association framework created by this agreement goes far beyond the classic margins of association and free trade arrangements providing for not only improving market access for goods but also the gradual liberalization of services and approximation commitments with regard to technical barriers to trade, intellectual property rights, public procurement, trade facilitation, sanitary and phytosanitary rules, competition, and energy policies.

The process of influencing the Georgian Legislation has not been started with the entry into force of the Association Agreement. The EU-Georgia Partnership and Cooperation Agreement<sup>6</sup> (The EU-Georgia PCA), the first legal framework of relations between Georgian and European Union, was signed in 1996 and entered into force in 1999. It also provided for an approximation clause according to which Georgia should “endeavor to ensure that its legislation will be gradually made compatible with that of the Community.”<sup>7</sup> This wording made it clear that the obligation to approximate Georgian legislation to that of the EU was only of “soft” nature. Accordingly, there were no specific deadlines set for the fulfillment of this obligation.

The basic tool for the implementation of the European Neighborhood Policy (ENP), the EU-Georgia ENP Action Plan, which was adopted in 2006, contained a more expanded scope of fields to be covered by the approximation. Even though it provided monitoring instruments such as regular progress reports by the European Commission, a precise scope, indicators, and deadlines for approximation were largely missing.<sup>8</sup>

In the preamble of the EU-Georgia AA it is declared that the parties are

committed to achieve economic integration in particular through a Deep and Comprehensive Free Trade Area (DCFTA), as an integral part of this Agreement including regulatory approximation and in compliance with the rights and obligations arising out of the membership of the Parties in the World Trade Organization (WTO).<sup>9</sup>

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5 A. Lazowski, “Enhanced Multilateralism and Enhanced Bilateralism: Integration Without Membership in the European Union,” *Common Market Law Review* 45.2 (2008): 1433–58; G. Van der Loo, “The EU-Ukraine Deep and Comprehensive Free Trade Area: A Coherent Mechanism for Legislative Approximation?,” in *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union. Towards a Common Regulatory Space?*, ed. P. Van Elsuwege, R. Petrov (Oxford: Routledge, 2014), 63–88.

6 OJ, 1999, L 205.

7 Article 43 (2) of the EU–Georgia PCA.

8 Concerning approximation process which took place in Georgia before the entry into force of the EU-Georgia Association Agreement see: G. Gabrichidze, “Legislative Approximation and Application of EU Law in Georgia,” in *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the European Union. Towards a Common Regulatory Space?*, ed. P. Van Elsuwege, R. Petrov (Oxford: Routledge, 2014), 179–91.

9 Preamble of the EU-Georgia Association Agreement.

Thus, this statement makes it clear that approximation is seen as a tool to achieve economic integration. On its part, economic integration can be considered as an objective of the foreign policy of the European Union towards the neighborhood to “*expand prosperity, stability and security beyond the borders of the European Union.*”<sup>10</sup> In short, economic integration with the European Union should help its neighbors in their striving towards economic development and it is the approximation of national laws to the EU law that makes it possible to realize this plan.

### **Approximation Mechanisms in the EU-Georgia Association Agreement**

The EU-Georgia AA contains various legislative approximation mechanisms. They can be found in several parts of the Agreement. The differences in the scope or procedure can be explained by the fact that different chapters may have different objectives. In particular, approximation provisions can be found in Title IV (DCFTA),<sup>11</sup> Title V (Economic cooperation),<sup>12</sup> Title VI (Other cooperation policies)<sup>13</sup> and Title VIII (Institutional, general and final provisions).<sup>14</sup>

In general, approximation provisions contained in the EU-Georgia AA can be classified in three categories. A general approximation clause is provided for in Article 417 with the title “gradual approximation” and states that Georgia “shall carry out gradual approximation of its legislation to EU law as referred to in the Annexes to this Agreement, based on commitments identified in this Agreement, and in accordance with the provisions of those Annexes. This provision shall be without prejudice to any specific principles and obligations on approximation under Title IV (Trade and Trade-related Matters) of this Agreement”. The second category of approximation provisions include approximation clauses provided for in each sectoral chapter of the Association Agreement. These special approximation clauses refer to relevant annexes of the Association Agreement and thus list specific EU legal acts to which Georgian laws shall be approximated. The third category of approximation provisions is provided for in approximation-supportive clauses which, though refer to the DCFTA part of the

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<sup>10</sup> Conclusion of the European Council, June 16, 2006, 57.

<sup>11</sup> Approximation provisions contained in the DCFTA part of the EU-Georgia Association Agreement will be discussed below.

<sup>12</sup> Taxation (Article 285); statistics (Article 291).

<sup>13</sup> Transport (Article 296); energy cooperation (Article 300); environment (Article 306); climate action (Article 312); company law, accounting, auditing and corporate governance (Article 319); financial services (Article 323); cooperation in the field of informational society (Article 327); consumer policy (Article 347); employment, social policy and equal opportunities (Article 354); public health (Article 357); cooperation in audio-visual and media fields (Article 367).

<sup>14</sup> Chapter 2 (“General and Final Provisions”).

EU-Georgia AA, are not sector-specific and can be categorized as general provisions on approximation under DCFTA.<sup>15</sup>

### Special Approximation Provisions

As mentioned above, the provisions on the DCFTA are provided for in Title IV of the EU-Georgia AA (trade and trade-related matters) and include 15 Chapters. Chapters 1 to 13 deal with specific areas of trade. Chapter 14 covers dispute settlement and mediation while Chapter 15 includes general provisions on approximation.

The special approximation clauses are included in the chapters of the following sectors: sanitary, phytosanitary, and animal welfare legislation<sup>16</sup>; customs legislation;<sup>17</sup> establishment of trade in services and electronic commerce;<sup>18</sup> transport services<sup>19</sup> and public procurement.<sup>20</sup> As an illustration of approximation mechanisms contained in the DCFTA section of the Association Agreement, two of them will be further discussed below.

Chapter 3 of Title IV is titled “Technical Barriers to Trade, Standardization, Metrology, Accreditation and Conformity Assessment” and applies to the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures as defined in the WTO Agreement on Technical Barriers to Trade that may affect trade in goods between the EU and Georgia.<sup>21</sup> Georgia shall take the measures necessary in order to gradually achieve approximation with the Union’s technical regulations, standards, metrology, accreditation, conformity assessment, corresponding systems, and the market surveillance system. Furthermore, it has to follow the principles and the practice laid down in the relevant Union *acquis*.<sup>22</sup> In order to reach these objectives, Georgia shall progressively approximate its legislation to the relevant Union *acquis*. It will achieve and maintain the level of administrative and institutional effectiveness necessary to provide an effective and transparent system that is required for the implementation of this Chapter.<sup>23</sup>

It is also worth mentioning that the Association Agreement explicitly obliges Georgia to refrain from amending its horizontal and sectoral legislation in the priority

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<sup>15</sup> Articles 271–276 of the EU-Georgia Association Agreement. Chapter 15, which contains these provisions, is a part of the DCFTA part of the Association Agreement (Title IV) and entitled “General Provisions on Approximation under Title IV.”

<sup>16</sup> Article 55 of the EU-Georgia Association Agreement.

<sup>17</sup> Article 75 of the EU-Georgia Association Agreement.

<sup>18</sup> Articles 103, 113 and 122 of the EU-Georgia Association Agreement.

<sup>19</sup> Article 126 of the EU-Georgia Association Agreement.

<sup>20</sup> Article 146 of the EU-Georgia Association Agreement.

<sup>21</sup> Article 44 (1) of the EU-Georgia Association Agreement.

<sup>22</sup> Article 47 (1) of the EU-Georgia Association Agreement.

<sup>23</sup> Article 47 (2) of the EU-Georgia Association Agreement.

areas for approximation, except for approximating such legislation progressively to the corresponding EU *acquis* and for maintaining such approximation.<sup>24</sup>

A list of the measures for approximation, the scope of specific *acquis*, and a timetable for approximation are provided in Annex III-A to the Association Agreement. This list may be amended by a decision of the Association Committee in Trade configuration.<sup>25</sup>

Chapter 6 of Title IV is called “Establishment, trade in services and electronic commerce” and provides for the necessary arrangements for the progressive reciprocal liberalization of establishment and trade in services and for cooperation on electronic commerce.<sup>26</sup> From all the sections and sub-sections included in this Chapter,<sup>27</sup> only the following sub-sections provide for approximation clauses; Postal and courier services,<sup>28</sup> electronic communication network and services,<sup>29</sup> financial services,<sup>30</sup> and transport services.<sup>31</sup> All of these sub-sections include the same provision on gradual approximation, which states “with a view to considering further liberalization of trade in services, the Parties recognize the importance of the gradual approximation of the existing and future legislation of Georgia to the list of the Union *acquis* included in the [relevant annex] to this Agreement.”<sup>32</sup> A very strong feature of this provision is that it refers not only to laws existing before the entry into force of the Association Agreement but also to future legislation. Consequently, not only must those EU norms which were valid at the moment of entry into force of the Association Agreement be respected, but also the EU law which will be adopted after the Association Agreement came into force.

As for Title on Economic cooperation and Title on other cooperation policies, almost all approximation clauses included in their Chapters have the same wording, according to which, “Georgia will carry out approximation of its legislation to the EU acts and international instruments referred to in [relevant annex] to this Agreement

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24 Article 47 (3) of the EU-Georgia Association Agreement.

25 Article 47 (2) of the EU-Georgia Association Agreement.

26 Article 76 (1) of the EU-Georgia Association Agreement.

27 The Chapter 6 of Title IV of the EU-Georgia Association Agreement includes the following sectors: General provisions; establishment; cross-border supply of services; temporary presence of natural persons for business purposes; regulatory framework; electronic commerce; exceptions.

28 Articles 99–103 of the EU-Georgia Association Agreement.

29 Articles 104–113 of the EU-Georgia Association Agreement.

30 Articles 114–122 of the EU-Georgia Association Agreement.

31 Articles 123–126 of the EU-Georgia Association Agreement.

32 Articles 103, 11, 122, 126 of the EU-Georgia Association Agreement. The wording sounds somewhat softened in comparison with the similar articles in the EU-Ukraine Association Agreement, where, in addition to recognition of importance of approximation, the obligation for Ukraine to “ensure that its existing laws and future legislation will be gradually made compatible with the EU *acquis*” is also provided for (see Articles 114, 124 and 133 of the EU-Ukraine Association Agreement).

in accordance with the provisions of that Annex.”<sup>33</sup> Here it is particularly noticeable that in contrast to, for example, the approximation clause contained in the chapter on “Technical barriers to trade, standardization, metrology, accreditation and conformity assessment”, the above-mentioned provision looks vague. Nevertheless, it is strengthened with the general approximation clause of Article 417 of the Association Agreement and the content of relevant annexes<sup>34</sup> where the concrete scope and timetable for approximation are defined.

### General Approximation Provisions for the DCFTA

As mentioned above, general approximation provisions for the DCFTA part of the EU-Georgia AA are provided for in Chapter 15 of Title IV. They cover the following issues: progress in approximation in trade-related areas,<sup>35</sup> repeal of inconsistent domestic law,<sup>36</sup> assessment of approximation in trade-related areas,<sup>37</sup> developments relevant to approximation,<sup>38</sup> exchange of information,<sup>39</sup> and general provision.<sup>40</sup> However, because of their status as special norms, the provisions of the sector-specific Chapters shall prevail over the provisions set out in Chapter 15 to the extent that there is a conflict.<sup>41</sup>

In order to facilitate the assessment of the approximation of Georgian law to EU law in the trade-related areas of Title IV of the Association Agreement, the parties shall regularly, and at least once a year, discuss the progress in approximation according to the agreed timeframes. These timeframes are provided in the chapters dealing with technical barriers to trade, standardization, metrology, accreditation and conformity assessment,<sup>42</sup> sanitary and phytosanitary measures,<sup>43</sup> customs and trade facilitation,<sup>44</sup>

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33 Articles 285, 296, 300, 306, 312, 319, 323, 327, 347, 354, 357, 367 of the EU-Georgia Association Agreement.

34 Annexes XV-A (Rules applicable to financial services), XV-B (Rules applicable to communication services), XV-D (Rules applicable to maritime transport), XXII (Taxation), XXV (Energy), XXVI (Environment), XXVII (Climate action), XXVIII (Company law, accounting and auditing and corporate governance), XXIX (Consumer policy), XXX (Employment, social policy and equal opportunities), XXXI (Public health), XXXIII (Cooperation in audio-visual and media fields).

35 Article 271 of the EU-Georgia Association Agreement.

36 Article 272 of the EU-Georgia Association Agreement.

37 Article 273 of the EU-Georgia Association Agreement.

38 Article 274 of the EU-Georgia Association Agreement.

39 Article 275 of the EU-Georgia Association Agreement.

40 Article 276 of the EU-Georgia Association Agreement.

41 Article 276 (3) of the EU-Georgia Association Agreement.

42 Chapter 3 of Title IV of the EU-Georgia Association Agreement.

43 Chapter 4 of Title IV of the EU-Georgia Association Agreement.

44 Chapter 5 of Title IV of the EU-Georgia Association Agreement.

establishment, trade in services and electronic commerce,<sup>45</sup> and public procurement.<sup>46</sup> The discussions shall take place in the Association Committee in Trade configuration, or one of its Sub-Committees established under the Association Agreement. For these purposes, Georgia will have to provide information on progress in approximation and on the effective implementation and enforcement of approximated Georgian law.

Article 272 of the EU-Georgia AA imposes an obligation upon Georgia to repeal provisions of national law or remove administrative practices which are inconsistent with the EU law that is the object of approximation provisions or with its national law approximated to the EU law accordingly. This seems to be a very logical demand as maintaining existing national rules, which are at odds with approximation objectives, would undermine the entire approximation process.

Special emphasis is placed on the assessment of approximation in trade-related areas. Whereas, the assessment of approximation by the EU starts when Georgia informs the EU that it has completed the approximation provided for in any of the Chapters of the DCFTA part of the Association Agreement.<sup>47</sup> The object of the assessment will be whether the law of Georgia has been approximated to EU law and whether it is implemented and enforced effectively.<sup>48</sup> The scope of the assessment reflects the scope of obligation imposed upon Georgia not only to approximate the national rules to the EU law but also to “ensure the effective implementation of the domestic law approximated under Title IV (Trade and Trade-related Matters) of this Agreement and to undertake any action necessary to reflect the developments in Union law in its domestic law, in accordance with Article 418 of this Agreement.”<sup>49</sup>

Logically, a negative assessment will lead to serious consequences. If Georgia does not approximate its national law to take account of changes to Title IV concerning approximation, if the assessment shows that the law of Georgia is no longer approximated to the EU law, or if the Association Council fails to take a decision to update Title IV in line with developments in EU law, particular benefits afforded by the EU based on an assessment that the law of Georgia had been approximated to EU law and was implemented and enforced effectively may be temporarily suspended.<sup>50</sup> However, the EU may implement the suspension of benefits only if the matter is not referred by Georgia to the Association Committee in Trade configuration, or if it cannot be resolved by this Committee within three months from the referral.<sup>51</sup>

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45 Chapter 6 of Title IV of the EU-Georgia Association Agreement.

46 Chapter 8 of Title IV of the EU-Georgia Association Agreement.

47 Except when otherwise specified in Chapters 4 and 8 of Title IV of the EU-Georgia Association Agreement.

48 Article 273 (2) of the EU-Georgia Association Agreement.

49 Article 274 (1) of the EU-Georgia Association Agreement.

50 Article 274 (6) of the EU-Georgia Association Agreement.

51 Article 274 (7) of the EU-Georgia Association Agreement.

## General Approximation Provisions

Approximation provisions provided for in the DCFTA part and other parts of the Association Agreement are complemented by approximation clauses which do not establish a separate approximation mechanism but supplement the others. To these provisions belong the general approximation clause of Article 417, which, as mentioned above, imposes upon Georgia an obligation to carry out gradual approximation of its legislation to EU law as referred to in the annexes to this agreement. Furthermore, this provision shall not affect specific principles and obligations on approximation provided for in the DCFTA part of the Association Agreement. This statement underlines the general nature of this clause.

Another example of a general provision, Article 418 stipulates that “in line with the goal of gradual approximation by Georgia to EU law, the Association Council shall periodically revise and update Annexes to this Agreement, including in order to reflect the evolution of EU law and applicable standards set out in international instruments deemed relevant by the Parties, and following the completion of the respective internal procedures of the Parties, as appropriate.” Here also, there is the same reflection of the general nature of this norm in the mentioning that this clause shall not affect any specific provisions under Title IV of the Association Agreement.<sup>52</sup>

## The issue of National Sovereignty

Any kind of general commitment to dynamic approximation raise the question of whether it is compatible with understanding of national sovereignty and its legal framework. No express provision can be found in the Constitution of Georgia which could be considered as a permission for the transfer of sovereignty to international bodies. On the other side, there are also no provisions which would establish substantive barriers on constitutional amendments. Title VIII of the Constitution only defines the procedural requirements for a full or partial change of the Constitution. Thus, the Parliament of Georgia does have an unlimited mandate to define any kind of specific constitutional provisions, including a constitutional basis for European integration. While the recently adopted amendment to the Constitution, according to which ‘the constitutional bodies shall take all available measures within their competence to ensure Georgia’s full integration into the European Union and the North-Atlantic Treaty Organization<sup>53</sup> could be considered as a very important political commitment

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52 In context of horizontality of these provisions, it is also worth mentioning that Articles 417 and 418 are part of Title VIII of the Association Agreement which is entitled “Institutional, General and Final Provisions.”

53 Article 78 of the Constitution of Georgia. The amendment is a part of the constitutional amendments package adopted by the Parliament of Georgia on October 13, 2017. The constitutional changes will take effect immediately after a President of Georgia elected in the next presidential election, which will be held in 2018, take the oath of office. For the

elevated to the rank of a constitutional norm, it cannot serve as a basis for national legal acts subordinating the Georgian law to that of the EU. On the bilateral level, this is not problematic in view of the fact that there is no constitutional norm prohibiting the transfer of sovereignty to international bodies. Accordingly, such transfer may be carried out through international agreements concluded with an international organization and it is only subject to formal procedural rules.<sup>54</sup>

## Conclusion

Georgia's ambition to achieve special relationship with the EU, including the long-term goal to become a member, has been articulated not only in political declarations but also in a number legal acts adopted with the aim to foster approximation of the Georgian legislation to that of the EU. Whereas, the approximation process should not be limited with the scope of obligations undertaken under international agreements concluded with the EU. Thus, the Georgian legislature provided a legal framework for measures increasing impact of the EU law on the Georgian legal order which is constitutionally problematic. In practice, these unilateral acts of positioning of Georgian legislation towards the EU law lack efficient implementation.

With the entry into force of the EU-Georgia AA, the impact of the EU law is rooted in a very solid basis of international legal nature. It contains a large number of approximation provisions according to which Georgia must approximate its national law to that of the EU. Thus, in contrast to the "soft" provisions of the EU-Georgia PCA and ENP Action Plan, approximation clauses provided for in the EU-Georgia AA are of binding nature. Obviously, they are more accentuated in the DCFTA part of the Association Agreement and this is logical. It takes into consideration market access and compatibility, which are among the main goals of all parties.

It can be argued that approximation clauses and other approximation-related provisions have a central place in the structure of the Association Agreement and constitute the main indicator on which the conditionality relies. Moreover, obligations to approximate the national law to that of the EU is strengthened with obligations to ensure the effective implementation of those national laws which were approximated to the EU law. All these obligations together with very sophisticated assessment

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English version of Article 78 of the Constitution see: European Commission for Democracy through Law (Venice Commission), "Georgia. Draft Revised Constitution," CDL-REF (2017) 027, Strasbourg, May 17, 2017.

54 According to Article 65 of the Constitution of Georgia, the Parliament of Georgia, acting by a majority of its members, shall ratify, denounce, and annul treaties and international agreements. It is obligatory to ratify a treaty which envisage Georgia's accession of an international organisation or interstate alliance; b) are of a military nature; c) concern the territorial integrity or change of the state borders; d) concern the borrowing or lending of money by the State; e) require change of domestic legislation or adoption of laws and statutory acts necessary for the fulfilment of international obligations undertaken.

procedures substantially increase the impact of the EU law on the Georgian legal order and can make the EU-Georgia AA an efficient integration mechanism.

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