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The EU-Georgia Association Agreement as a Process of Harmonization of Georgian Environmental Law

"The Association Agreement between, on the one hand, Georgia, and on the other hand, the European Union and the European Atomic Energy Community and their member states" (hereinafter the "Association Agreement") was initialed[1] on 28–29 November 2013 within the framework of the "Eastern Partnership" Vilnius Summit. The Agreement was signed on 27 June 2014 in Brussels and ratified by the Parliament of Georgia on 18 July of the same year.

By ratifying the Association Agreement, the Georgian authorities assumed various commitments, including the approximation of its national legislation to EU environmental protection and climate change regulatory directives.[2]

The ratification of the Association Agreement created a long-term perspective for the development of national policies in various fields, including environmental protection and climate change. The EU-Georgia Association Agreement established a solid legal basis for future legislative drafting and law enforcement processes.

It is widely recognized that the planet faces serious environmental challenges, which can only be addressed through international cooperation and the creation of an appropriate legislative framework aligned with EU law and reflecting European best practices. Accordingly, since the signing of the Association Agreement in 2014, environmental law in Georgia has been moving closer to European environmental legislation, which, as noted, represents a commitment under the Association Agreement. However, along the path of legislative approximation, beyond legislative progress, significant challenges have emerged, the identification and overcoming of which constitute a prerequisite for successful environmental legislation and national policy.

Within the framework of this article, the transformation of Georgian environmental law following the entry into force of the Association Agreement will be analyzed. The article will identify the challenges present in the process of legislative approximation in the environmental field and present the authors' recommendations for overcoming these challenges.

Keywords: *Association Agreement, legal approximation/harmonization, Europeanization, transformation of Georgian environmental law.*

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1 Confirmation of the negotiated text by the heads of the parties' delegations, with initials placed on each page of the Agreement.

2 The Association Agreement between, on the one hand, Georgia, and on the other hand, the European Union and the European Atomic Energy Community and their member states," Articles 306, 312.

1. Introduction

The transformation of Georgian Law which was based on the dissolution of the Soviet Union and the process of creation of an independent Georgian state, took the course of Europeanisation from the very beginning. This is confirmed by the Georgian Parliament Resolution of 1997 on Harmonisation of Georgian Legislation with the legislation of the European Union, which required that every normative act had to be in compliance with the EU standards.

If we consider the harmonisation of laws as both – the process of adoption of legislative acts and the practice of their enforcement and interpretation[3], the ambitious goal of the nineties of the last century did not correspond with reality. At that time, Georgia did not have the necessary experience for the creation of legislation of European standard, especially, it was impossible to apply such laws into practice. Creation of a new national state, transformation of the existing communist regime into democratic system and transition of planned economy to the principle of free market were the stated goal, achievement of which was met with certain scepticism at that time. Nevertheless, the existence of political will opened the door for radical changes and the positive practice of international cooperation soon made the suspicion of impossibility to do that disappear, which made it possible to share Western experience and transpose it into Georgian reality.[4]

Whereas for member states of the EU approximation of legal systems is one of the mechanisms for the functioning of internal market, for Georgia, it is an opportunity to create a modern democratic, legal, social and ecological state. In the nineties of the last century, under the large wave of reform, the law reform often had spontaneous character and ill-considered transposition of legal institutes occurred. Within the framework of international cooperation modern laws of European standard were drafted, though the practice of their enforcement was different. The enactment of new laws was followed by a large wave of their amendments, considering the problems of their enforcement practice. In the legal literature, this phase of legal harmonisation was called "Random Europeanisation".[5]

The Association Agreement between the European Union and Georgia signed in Brussels on June 27, 2014 gave new power to the process of Europeanisation of Georgian Administrative Law.[6] This phase is called "Associated Europeanisation"[7]. The Association Agreement is important not because it has started the process of Europeanisation of Georgian Law, but because it has given organised and legal nature to this process.

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3 *Lohse J.E.,* Rechtsangleichungsprozesse in der Europäischen Union, Mohr Siebeck, 2017, 71.

4 *Winter G., Kalichava K.*, Rechtstransfer und Eigendynamik in Transformationsländern: Das Beispiel der Verwaltungsrechtsentwicklung in Georgien, ZaöRV 2019, 273.

5 *Kalichava K., Environmental Law*, Tbilisi, 2018, 32.

6 Association Agreement between Georgia, of the one part and the European Atomic Energy Community and their member states, of the other part, was initialled on November 28-29, within the framework of the Vilnius Summit of the Eastern Partnership. The Agreement was signed on June 27, 2014 in Brussels, and ratified by Georgian Parliament on July 18 of the same year. With the Association Agreement Georgian authorities undertook the obligation of approximation to various directives, including those regulating environmental protection and climate change.

7 *Kalichava K.*, Europäisierung des georgischen Verwaltungsrechts, DÖV, 2018, 92f.

Europeanisation of Law in terms of European integration implies the process of approximation of national and supranational legal systems, which is not unilateral, but rests upon bilateral ties. Unlike horizontal Europeanisation, where the modern European administrative law was formed by the mutual impact of national and European legal orders, the Association Agreement does not have a bilateral nature in terms of the obligation of legislative approximation, but it implies the unilateral obligation of Georgia[8]. Therefore, a legitimate question arises, that is, whether it contains the elements which will enable conducting the process by taking into consideration the historical, cultural, economic and political context of the country.

In the context of approximation of legal systems, it is a noteworthy fact that the approach towards the transfer of legal norm is diverse in scientific literature. One author thinks that a legal norm, as an autonomously functioning phenomenon, is easily transplantable and does not depend on social context, it is easily assimilated by a new body. On the contrary, a second author claims that it is impossible to transfer a norm, as at this time, the content of the transformed norm, its social function and its culture-based identity is changed. In a new environment a norm starts to exist in a completely different form and meaning, or fails to exist at all[9]. This paper is not based on these contradicting opinions, but on the approach that a legal norm cannot bring identical outcome in a foreign legal system, as it does in its domestic environment. A norm always faces changes in the light of the local context. The transformation of a legal norm of another country implies the creation of the national one based on universal values, which is partially compatible with local culture and to some extent, becomes the basis for the formation of new cultural values itself. Any other kind of understanding of the Europeanisation of Law would make it impossible to achieve the goals of the Association Agreement.

Choosing the Environmental Law for the analysis of the Europeanisation process of Georgian Law results from the fact that it is the field where the need and opportunity of interstate cooperation is high. The paper is based on the thesis that comparative law research is a necessary instrument for the proper flow of the Europeanisation process of Environmental legislation. The problem existing in this field is related to the fact that approximation of Environmental Law and Comparative Law, as well as full implementation of the methods and instruments of Comparative Law in the process of development of Environmental Law still have not been managed. This is due to objective reasons; first of all, comparative law requires such development that will clearly form those major elements, based on which it will be possible to perform the systematic analysis of the issue. On the other hand, Environmental Law is a complex and dynamic field and its certain subfields are of utterly technical character. It requires great effort and knowledge to process the dynamic and complex legal problem of environmental protection using also the difficult and complex scheme of comparative law.

2. Clarification of the Terminology

In this paper, the term Europeanisation of Georgian Law means the goal of reforming the Georgian legal system, and harmonisation is the instrument for achieving this goal.

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8 *Kalichava K.*, *Environmental Law*, Tbilisi, 2018, 27.

9 *Lohse J.E.*, Rechtsangleichungsprozesse in der Europäischen Union, Mohr Siebeck, 2017, 95, notes 8-9. Also, *Kalichava K.*, Environmental Law, 2018, 40.

In the sources of the primary law of the European Union, the term harmonisation appears for the first time in the Treaty of Paris "On Coal and Steel Union" (1951)[10]. The 1957 Treaty of Rome "On European Economic Union" established the term "approximation" in the legal space[11]. Nowadays, both terms are used simultaneously and in parallel in the law of the European Union. Often, harmonisation and approximation are used as synonyms.

There is gradual approximation and dynamic approximation in EU law. The EU-Georgia Association Agreement defines gradual approximation as follows: "Georgia shall carry out gradual approximaion 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."[12]

Dynamic approximation is defined as follows: "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. This provision shall be without prejudice to any specific provisions under Title IV (Trade and Trade-related Matters) of this Agreement."[13]

Despite the terminological confusion, "harmonisation" can be understood as a general concept, which ensures the equality of national norms both by creating similar norms and by cancelling different regulations. Approximation is a means of harmonising the legal norms of particular states and includes an active process of replacing national norms with secondary legal instruments[14].

Approximation does not mean "identity" of norms, since the purpose of approximation can be achieved by different legal instruments. The content of the approximation of law forms the main common features that make approximation possible. Copying legal norms does not mean unconditionally achieving the goal of approximation. Only the interpretation of the norm and knowledge of its foundations allow to determine whether two identical terms in different languages carry a common content or not. Just as the literal concordance of the norms is not a guarantee that the substantive convergence has been achieved, the different wording does not provide a basis for the conclusion that the goal of convergence has not been achieved. For the convergence of legal norms, the main prerequisite is that the norm established in the national legislation provides the possibility of an appropriate definition of the goal and has the potential to create the possibility of identity of its use, that is, to provide the possibility of identical decisions for identical cases[15].

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10 Treaty Establishing the European Coal and Steel Community, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:11951K:EN:PDF> [30.05.2025].

11 Approximation of Laws. Treaty Establishing the European Economic Community and Related Instruments (EEC treaty), Part three, title I, chapter 3: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11997E/TXT> [30.05.2025].

12 "The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part", Article 417.

13 "The Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part", Article 418.

14 See *Lohse J.E.*, Rechtsangleichungsprozesse in der Europäischen Union, Mohr Siebeck, 2017, 28.

15 Ibid, 33.

Based on the mentioned definitions, we can conclude that the legal approximation with the European Union implies not only the transposition/reflection of European standards in the national legislation, but also their enforcement and constant updating as a result of the relevant legislative changes in the European Union law. National Legislation shall define the minimum standards set by a Directive. EU countries are empowered to set and establish a higher and stronger standard than a Directive requires. This gives the states the opportunity to take into account their own national practices and peculiarities in the process of legal approximation, to develop individual means and mechanisms of enforcement or responsibility, meeting the minimum standards of EU directives, which is a prerequisite for the new legislation to be more effective and efficient for a particular state. These approaches are directly spelled out/defined in binding Directives.

3. Environmental Part of the Association Agreement

European environmental policy includes four fundamental objectives, namely: protection of the environment and improvement of its quality, protection of human health, rational use of natural resources, taking measures at the international level to solve regional or global environmental problems and combat climate change[16]. In accordance with these goals, for the purpose of legislative approximation, provided by the EU-Georgia Association Agreement, there is significant progress in Georgian environmental legislation, in particular, in the direction of environmental management, air quality, water resources management, waste management, nature protection, industrial pollution and combating climate change.

From the 27 EU Directive/Regulation, stipulated by the Association Agreement, legislative approximation has been already fully/partially implemented of 20 acts mentioned therein, and in order to approximate 7 EU legal acts, drafts of normative acts have been delivered and active work is underway. Fulfillment of aforementioned obligations and effective legislative approximation promotes maintaining, protecting and rehabilitating the quality of the environment in the country, protecting people's health, making sustainable use of natural resources and promoting efforts at the international level to deal with regional or global problems of environmental protection, including the United Nations 2030 Sustainable Development Goals which are to achieve.

In the direction of environmental governance, the Parliament of Georgia adopted such important legislative acts as the Environmental Assessment Code, which subjected to environmental impact assessment all those activities (by scale and category) that have a significant impact on the state of the environment and human life and/or health[17]. The Code introduces principles of the EU Environmental

[16] The Treaty on the Functioning of the European Union, Part Three – Union Policies and Internal Actions, Title XX, Environment, art. Article 191.

[17] The Environmental Assessment Code is fully in line with the requirements of Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes, Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information and repealing Council Directive 90/313/EEC, and Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain

Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) directives, as well as the approaches of the Convention on Environmental Impact Assessment in Transboundary Context (Espoo Convention) and its protocol on SEA and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). In particular, the Code broadened the list of activities subject to EIA. The Code also ensures a higher degree of public participation at all stages of the EIA procedure (screening and scoping, as well as during the procedure for issuing Environmental Decision). Namely, the mechanism of public involvement has become clearer and more effective at the earliest possible stage of the environmental impact assessment process, ensuring that the views of all stakeholders are taken into account in the decision-making process. The SEA procedure which was introduced by the Code, contributes to the integration of environmental and human health-related aspects in strategic planning.

The Environmental Assessment Code provides the establishment/ introduction of a completely new transboundary environmental impact assessment procedure, which implies the involvement of a foreign state in the environmental decision-making process, when an activity or strategic document affects the environment of the foreign country. According to the Environmental Assessment Code the mentioned procedure will be implemented as soon as the Convention "On Environmental Impact Assessment in a Transboundary Context" and its Protocol "On Strategic Environmental Assessment" will come into force in Georgia.

The Law of Georgia on "Environmental Liability" needs to be mentioned[18] which aims to develop a system of environmental liability based on the "polluter pays principle" and serving the elimination/ mitigation of environmental harm. The Law introduced a completely new mechanism of environmental liability in Georgia, according to which a person causing significant damage to the environment will be obliged not to pay the monetary compensation, but to take necessary remedial measures to restore the environment in accordance with a pre-defined plan/schedule. The polluter pays principle is one of the binding principles of the EU environmental policy, along with the precautionary and prevention principles.[19]

Improving the quality of ambient air is one of the main priorities in order to improve the living environmental conditions of the population. Accordingly, Annex XXVI of the Association Agreement, of course, provides, among other things, the obligation of legal approximation in this direction. As a result of the amendments made in 2020 to the Law of Georgia "On Ambient Air Protection" and the adoption of subordinate normative acts/bylaws, the national legislation has been fully in line with the framework legislation and standards of the European Union in the field of atmospheric air quality management. In order to reduce air pollution from the industrial sector in the whole country a

public and private projects on the environment and Espoo Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context.

18 The law on environmental liability is fully in line with Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage.

19 The Treaty on the Functioning of the European Union, Part Three Union Policies and Internal Actions, Title XX – Environment, Article 191.

legislative package was adopted in March 2021, that tightened liability of industrial plants for exceeding emission limit values and absence of abatement equipment. It introduced obligatory conditions for industrial plants having a significant negative impact on the environment to install automatic self-monitoring systems for emissions[20]. In order to renew and recover the existing vehicle fleet and reduce air pollution from transport, Georgia has recently implemented and initiated numerous important activities. Sanctions were tightened for not carrying out mandatory periodic technical inspections of vehicles. In June 2023 the Government of Georgia approved a technical regulation determining the emission standards for vehicles. In addition, in order to reduce air pollution from the transport sector, an emission standard (Euro 5) has been established for cars imported into the country, which will come into effect gradually in 2024 and 2025. On September 4, 2023, the control of vehicle emissions on the road began.[21] Georgian environmental legislation setting quality standards for heavy fuel oil, gas oil and marine fuel is in line with Directive 2016/802 of the EU[22].

The main legislative act regulating the field of water protection and use in Georgia until 2023 was the Law of Georgia "On Water", which was adopted in 1997. Despite the fact that, after its adoption, a number of changes were made to the aforementioned law, it was not based on modern standards of water resources management and, therefore, could not ensure sustainable management of water resources. Along with this, the existing legal system of water resources management is fragmented (dispersed in various legislative or sub-legal normative acts) and ineffective. Due to the mentioned inefficient legal system, there was no rational use and sustainable management of water resources in the country. In 2023, the Parliament of Georgia adopted the Law of Georgia "On Water Resources", on the basis of which an integrated water resources management system will be established, which means that the appropriate legal/institutional foundations will be created. The draft Law is based on the principles of integrated water resources management and meets the requirements of the EU water legislation[23].

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20 The Law of Georgia "On Ambient Air Protection" regarding amendments to the Law of Georgia, (Matsne, 28/05/2020), https://matsne.gov.ge/ ka/document/view/4821836?publication=0; The Law of Georgia "On Ambient Air Protection" regarding amendments to the Law of Georgia, (Matsne, 28/07/2020), https://matsne.gov.ge/ka/document/view/4918031? publication=0.

21 Resolution of the Government of Georgia "On the implementation of the technical regulation on the implementation of the marginally permissible norms of emission (emissions) from various types of transport and other mobile-mechanical means polluting the air with harmful substances, provided for by the European Union legislation, in the territory of Georgia" N238, 28.06.2023. <https://matsne.gov.ge/ka/document/view/5845990?publication=0> [25.09.2025].

22 Technical regulation on determining the limit values for sulfur content in certain liquid fuels has been approved by Resolution No. 256 of the Government of Georgia on May 25, 2017.

23 The law was prepared within the legal approximation of 5 legal acts of the European Union: Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community actioninthe field of waterpolicy as amended by Decision No 2455/2001/EC; Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks; Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment as amended by Directive 98/15/EC and Regulation (EC) No 1882/2003; Directive 98/83/EC of 3 November 1998 on quality of water intended for human consumption as amended by Regulation (EC) No 1882/2003; Directive 91/676/EC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources as amended by Regulation (EC) No 1882/2003.

In accordance with EU legislation, in order to fulfill the obligations of the Association Agreement, a waste management system based on European approaches was established in Georgia, which provides the legal conditions for the implementation of measures aiming at the prevention of generation of waste, increased re-use, and environmentally sound treatment of waste. The first piece of legislation that was approximated with the EU legislation, was the Waste Management Code of Georgia, adopted by the Parliament in 2014. The Code defines waste management hierarchy as follows: prevention, re-use, recycling, recovery (including energy recovery), and disposal. It also introduces some major principles, such as Precaution, Polluter Pays, Proximity and Self-Sufficiency.

In 2023, the Parliament of Georgia adopted the Law "On Industrial Emissions". As a result of the adoption of the Law, an integrated permit system will be introduced in the country, the purpose of which is the prevention, reduction and control of emissions into the air, water and soil as a result of industrial activities, as well as the prevention of waste generation. This approach implies fundamental changes in the permitting system including the development of a relevant legal, institutional, administrative, and procedural scheme and the application of modern environmental management principles, such as Best Available Techniques (BAT) and Emission Limit Values (ELV) as required by the Association Agreement. On December 12, 2022, the government discussed and approved the draft law on Industrial Emissions, which was then sent to the Parliament for adoption.

In 2020, the Parliament adopted the Forest Code prepared in accordance with the mandatory principles of the European Union. The new Code provides the legal framework for sustainable forest management that will support the ecological stability of forest ecosystems, enhance the socio-economic benefits for the public and reduce the pressure on forests. The purpose of the Code is to protect the biological diversity of forests in Georgia, to maintain and improve the quantitative and qualitative characteristics of forest properties and resources in order to fulfill their ecological, social and economic functions. To achieve the mentioned goal, the Code defines the main principles of forest management, which should be the basis for sustainable forest management.

4. Comparative Environmental Law

Considering the transnational character of the Environmental Law, a comparative research method holds significant position. As environmental problems are not limited to the boundaries of the Georgian state, environmental protection does not only operate in the context of European and International Law, but also has a comparative legal function. The comparative approach to Environmental Law serves to reveal and analyse the common and the different factors and their causes based on the comparison of environmental systems of different states. It must also be noted here that the comparison must not be limited to only the comparison of legislative texts, but it must also consider the actual environmental situation and existing political, economic, legal and administrative factors, as well as law enforcement standards.[24]

Legal comparison, first of all, gives us a descriptive outline of existing norms, which also provides the opportunity for a better understanding of own legal norms. Its important function is

[24] *Kloepfer M.*, Umweltrecht, CHBECK, 2004, 721.

revealed by the fact that it shares with national legislation the experience which has been accumulated in terms of the effective and ineffective ways of solution of a problem. Comparison of Environmental Law as an international comparison offers us a large amount of material with regard to the usefulness of already applied instruments. It stimulates the creativity of the law-maker in taking political decisions and controls it at the same time[25].

The harmonisation of legal norms as a part of the Association Agreement is the major objective of comparative law. In its turn, this establishes an important instrument of international cooperation in the environmental field. Using Comparative Law for the purposes of transformation of Environmental Law requires the development of a systemic and methodical approach. It is necessary to determine the basic elements of Comparative Law, based on which the law-making process in the country will be implemented. We may share the input provided in legal literature, which names the following composite elements for the process of comparative analysis[26]:

a) Understanding the Outcome to be Achieved

A certain legal problem creates the necessity to apply the Comparative Law method. Establishment of its existence is based on the prior normative understanding of the one who applies it. The necessity of normative solution of the problem depends on its purpose. It has different functions in the scientific, research, justice and law-making process.

b) Specification of the Factual and Legal Problems to be Studied

The ascertaining and specification of the legal problem to be studied is the second element of the comparative analysis of Environmental Law. It is necessary to mark out and describe the factual or legal problem of the disputed issue clearly and comprehensively and it must be processed using the comparative method. The problem may be demonstrated as a non-legal social problem or it may have the content of a legal problem.

c) Selection of the Legal Norms to be Compared

Upon formulating national environmental norms, it is important to correctly select the normative acts to be compared. We should realize that the revealed legal problem and the norm selected for its solution cannot be found in an identical form in legal systems of other countries, but it can rather be a similar case. We should also consider the context of the problems of certain countries, which means that within the framework of comparison, not only different regulations are compared, which serves the solution of a similar problem, but the similarity between the problems to be solved is also examined. As long as structural similarity is revealed, comparative research makes sense. Often, in this regard, introducing the transformation process of PostSoviet Union countries is more relevant for Georgian reality, as the basic factual circumstances of the reform are identical. The experience of these countries provides meaningful information for comparative analysis in terms of the usefulness of certain institutes of Environmental Law in real life.

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25 Ibid.

26 *Markus T.,* Zur Rechtsvergleichung im nationalen und internationalen Umweltrecht, ZaöRV, 2020, 649.

d) Description and Analysis of the Norms to be Compared

In-depth analysis of the norms and non-legal grounds to be compared is an important element of comparative analysis. Here again, we have to take into account that the factual circumstances and legal problems in the systems to be compared are always different. Therefore, it is important to describe factual circumstances and also compare legal norms. If a non-legal situation is described in a sufficiently clear manner, it is possible to link the problem with the legal regulation in a proper manner.

We should give due consideration to the circumstance that the analysis of a foreign legislation is conducted on the basis of one's own dogmatic, socio-economic and lingual knowledge. In terms of the productiveness of comparative analysis, it is necessary to perform the analysis of a foreign country independently from one's own dogmatic and lingual context and from a neutral perspective. Here it is also necessary to introduce the practice of application of these norms, as well as consider the informal instruments for the solution of social norms and problems.

e) Comparative Legal Analysis

The essence of Comparative Law lies in the comparison of the comparable norms, which serve the solution of equivalent problems on the grounds of their common and distinguishing characteristics. The analysis must be based on common and distinguishing characteristics, which are revealed in:

- Social, economic, cultural, historical and ecological grounds;
- Legal grounds;
- Structure, content and sources of Ecological Law;
- Institutional grounds;
- Law application and enforcement practice.

In the process of comparative analysis, it is necessary to apply not only legal instruments, but also the instruments of social and natural sciences.

f) Evaluation

The results of the comparative analysis must be evaluated on the basis of systematic and foreseeable criteria. The evaluation must provide the answer to the question regarding the impact of the norm and the possibility of its integration from the issuing legal system into the receiving legal system. The main focus is put on the capacity of the norm to achieve the same outcome in the changed environment existing within the receiving state, as it had in the issuing state.

Within the framework of comparative analysis, the distinguishing impact of an identical legal norm in a different social context is examined. In its turn, the capacity and impact of integration depends on many factors, which can be divided into legal and non-legal factors.

In legal terms, the degree of compatibility of a norm is revealed in relation to the following factors:

- Governance tradition;
- Legal culture practice;

- Hierarchically superior legal norms;
- System of the form of government and distribution of competences;
- Law principles;
- Administrative proceedings and legal proceedings.

Among non-legal factors, the following are named:

- Political will of legal reception;
- Relations between the receiving and issuing states;
- Political attitude towards the environmental policy in the receiving state and distribution of powers;
- Structure and process of transformation process.

5. The Challenges of the Approximation of Environmental Legislation

At this stage of development, a large part of environmental legislation is approximated to the EU legislation. The following issues represent an important challenge in the way of implementing the effective enforcement mechanism of new legislative acts:

a) Compliance of Georgian Legislation with EU Legislation and the Best Practices of EU Countries

The best practices to be shared in the process of Europeanisation of Law cannot be universal in the case of all states. There are many important factors to consider in order to successfully apply best practices. Appropriate techniques must be adapted to individual situations and practices in specific contexts, for example, specific cultural needs or changes that will be necessary to take into consideration during the procedure[27]. Therefore, in order to successfully implement the law enforcement process and to identify the gaps in the existing legislation, it is necessary to study international best practices and guidelines and adapt to own challenges. This process should be supported by the strengthening of the role of comparative law, which in turn requires the creation of strong comparative legal research institutes within the framework of international scientific cooperation, which, despite the important academic cooperation, especially with German scientific institutions, is not as extensive as one would wish. During the transformation of the law, it is important not only to choose the correct system of the issuing law, but also the readiness of the recipient to actually ensure the reflection of the transformed law in legislation and practice is significant. This cooperation is multifaceted. Here we would like to highlight the inner shell, which includes cooperation between Georgian and foreign consultants. It is necessary to establish a dialogue type[28] of cooperation in the reform process, which implies the cooperation of local experts with equal

[27] Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters prepared under the Aarhus Convention, United Nations Publication, Sales No.: E.15.II.E.7 (Maastricht Recommendations), p. 13, line 9.

[28] *Winter G., Kalichava K.,* Law Transfer and Internal Dynamics in Transitional Countries: The Case of Georgian Administrative Law, *Journal of Public Law*, 1/2023, 63.

qualifications and external advisors. Without strengthening internal resources, the role of external experts who have minimal knowledge of the legal system, culture and needs of the host state and bring ready-made draft laws is futile.

b) Lack of the Human and Material Resources and Relevant Knowledge

Another important challenge for establishing an effective law enforcement mechanism is the lack of human and material resources and relevant knowledge in the public sector. In many cases, new legislation for both the public and private sectors defines such obligations, the fulfillment of which is related to the knowledge of relevant theory/techniques and/or the need to have material resources, which we do not have at this stage of development. Accordingly, the effective law enforcement process should also include equipping the public sector and the interested private sector with appropriate knowledge and material resources.

The formation of a modern public administration culture requires a lot of effort, without which the modern European legislation does not provide the result that lies in the goal of its transformation.

c) Economic Development Interests

The progress of environmental law and its effective enforcement is closely related to economic development. In the short term, legislation passed can impose potentially significant economic costs on the private sector.

Economics is not the only factor influencing the establishment of an effective enforcement mechanism for environmental legislation. In recent years, social/community awareness has been greatly increased in relation to environmental issues, therefore the social factor has no less influence in the process of making environmental decisions. As we have already mentioned, environmental aspects intersect with almost all areas of economic or social development. Balancing environmental activities and economic growth is a challenge for the governments of all countries, and Georgia is no exception. In order to meet these challenges, it is also necessary to integrate environmental issues into relevant political directions and national policy documents.

During the implementation of the environmental legislation enforcement mechanism, it should be taken into account that environmental protection and economic development should be considered in a complementary and not controversial manner. Economic development should not occur at the expense of environmental protection. It is crucial that a balance be maintained between the development of the country and the use of natural resources, and that the well-being of society is ensured only when environmental and social aspects are given equal importance as economic growth.

d) Environmental Education

Environmental education is also important, in order to achieve proper public participation in the decision-making process related to environmental issues and to promote the formation of a responsible attitude towards the environment in society.

Integration of environmental issues into other sectoral policies and activities is another important precondition for the establishment of an effective law enforcement system. This approach

requires commitments and contribution of ministries and, in general, the government as a whole. In this regard, the most important prerequisite is the involvement of state authorities, which are involved in the planning of development of the socio-economic sectors, that exerts the greatest pressure on the environment or plays an important role in preventing and responding to environmental challenges.

The importance of cooperation between central and local authorities and citizens in raising public awareness is demonstrated by the reticent attitude of the public towards the draft law, made for the creation of biosphere reserves. A biosphere reserve is a modal tool that shows how to achieve the coexistence of environmental protection (ecological) and profit (economic) interests, based on appropriate criteria, as an example of selected area. A biosphere reserve should establish a set of rules for the conduct of people, which should ensure the protection of biological diversity taking into account the interests of future generations and create a basis for the protection of the social and economic interests of the present generation[29]. Society and governance were not prepared for the concept developed within the framework of international cooperation. This is the case when law should acquire the function of transformation, creation of a new cultural value. This is achieved when law transformation is accompanied by public awareness measures.

6. Conclusion

Georgian environmental protection law is one of the visible examples of Europeanisation of Law. The Association Agreement gave the process an organised character and put it in a certain framework in terms of content and results.

The prespective of becoming part of the European Union creates a fertile ground for the Europeanisation of Law. However, the results of the legal approximation do not depend only on the political will of the receiving state; appropriate support must be provided by the internal (state and public) structures of the country as well.

The process of legal approximation is interesting in that it is partly the result of approximation of legal cultures, and partly becomes the basis for the establishment of a new culture (values) in the country.

In the process of fulfilling the obligations assumed by the Association Agreement, it is necessary to provide cooperative mechanisms that will contribute to the creation of local human and institutional resources in public and scientific-research institutions, which will become a guiding force in this process.

Legal approximation is not only the creation of European standard laws, but also includes the process of its enforcement. The use of comparative research methods in the law-making process will make it possible to assess the impact of the law in terms of the predictability of its implementation in practice.

Although the Association Agreement has the character of determining unilateral obligations and does not imply a bilateral harmonisation process, it can create experience for the purposes of the development of European countries and EU law. From this point of view, the Europeanisation process

[29] *Turava P.*, Establishment of Biosphere Reserve in Georgia, 2017, 3.

of the current law based on the Association Agreement can be described as a process of harmonisation of legal systems.

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