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Representation in International Relations, Impeachment of the President of Georgia, and European Integration

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Abstract: The 2017–2018 constitutional reform amended the Constitution of Georgia and changed the political system of the country. The president has the responsibility to represent the country in international relations, but only with the approval of the government. Constitutional norms are not specific, leaving room for different interpretations. Article 78 of the Constitution obliges constitutional bodies to use all measures for European integration. Under this constitutional obligation, the president met with European colleagues, though without governmental approval. This provoked the ruling party to initiate the process of impeachment. The Constitutional Court of Georgia concluded that the president breached the Constitution, but the parliament could not impeach the president. The paper analyses the role of presidential representation in international relations and its constitutional responsibility in the light of Georgia's European aspirations.

Keywords: *constitutional court, European integration, Georgia, government, impeachment, president, representation*

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1. Introduction

Political crises are said to be mostly loved by constitutional law professors (Gerhardt, 2002) and perhaps this observation is not far from the truth. Even more so, if it refers to a post-Soviet country on its path towards European integration, with a radically opposed political elite and a disillusioned electorate. The struggle for the political authority has always been a topical issue in Georgia, especially on its path to "de-Sovietisation," which, unfortunately, has lasted for a long time. As a result, the Soviet past is not forgotten and, moreover, is constantly subject to re-actualisation. The situation is exacerbated by the fact that more than three decades have passed since the restoration of independence, yet the Constitution of Georgia has not attained its function in social integration, which is crucially important for societies in transition. (Gegenava, 2021) The basic law is the source of manipulation and gratification for the political fantasies of the ruling majority of different times (Babeck, Fish & Reichenbecher, 2012). This is why the Constitution of Georgia, adopted in 1995, has gone through a series of short but diverse and rich constitutional processes from the perspective of constitutional development. As a result of constitutional reforms, along with small-scale constitutional amendments, it was systematically revised in 2004, 2010, and 2017–2018 (Gegenava *et al.*, 2021). While almost half of the text was changed in the first two revisions (Demetrashvili, 2011), the latest constitutional reform changed the basic law not only structurally but formally as well (Kublashvili, 2020), after which a stylistically different but contextually similar edition was established.

Along with these constitutional reforms, the forms of governance were changing in Georgia: the "unique" presidential regime established by the original edition was replaced by an unbalanced semi-presidential republic, which in turn was followed by an unbalanced semi-parliamentary regime (Khetsuriani, 2018). The 2017–2018 constitutional reform introduced parliamentary governance (Samkharadze, 2018), though the president who was elected through direct voting will be elected through indirect voting by a collegial body from 2024 (Goradze, 2019). The changes in the ruling regime had their effect, and problems related to the exercise of executive powers often arose during transitional periods, especially between the president and the government, who on the one hand fought to demonstrate their status and powers, and on the other hand, their role as head of state. Although the authority of the president was reduced, they retained their representation in international relations. In 2013–2018, the problems became obvious, as

the opposition between the president and the head of the government, the prime minister, reached its peak (Zurabashvili, 2016).

The constitutional edition of those days further complicated the matters, providing an interpretation that was useful for both. Nevertheless, the 2017–2018 constitutional reform reduced the president's authority even further, however, for the president, even at the nominal level, the unclear formulation of constitutional regulations on the opportunity of exercising foreign authority in agreement with the government resurfaced. The conflict escalated to the point that due to the president's international visits on his or her personal initiative, the parliament of Georgia initiated an impeachment procedure, after which the matter was referred to the Constitutional Court of Georgia for a legal opinion (Constitutional Reference 1797). Within a month, the Court responded to the main question about the extent to which the head of state had violated the Constitution of Georgia (Art. 48(1)), and found the president's action unconstitutional (Conclusion 3/1/1797 of the Constitutional Court of Georgia).

The discussion related to foreign authority, as the impeachment itself, is undeniably caused by politics; however, its legal side is crucially important. A legal assessment to solve the problem is essential. This article aims to analyse the constitutional basis of the foreign authority of the president and the government, especially in the context of Article 78 of the Constitution of Georgia. The president's argumentation is based on this provision, according to which each constitutional body should do everything possible to facilitate Georgia's integration in the European Union and the Euro-Atlantic organisations. Therefore, the article examines the provision of the Constitution and its obligations to understand how it affects the capacity of the president to independently exercise representation in foreign relations. Using comparative and historical research methods, systemic interpretation, and hermeneutical tools, the article describes and analyses the development of the representational responsibilities of the president of Georgia, reviews the different redactions of the relevant constitutional norms in the context of major constitutional reforms in Georgia, and the ongoing impeachment process.

2. Evolution of responsibility of the president's representation in international relations in the Constitution of Georgia

2.1 Representation of the president in international relations under the 2010 constitutional reform

The issue of the first person's role has always been a subject of robust discussion (Demetrashvili, 2011) in the history of independent Georgia, which first and foremost affects constitutionalism. The majority of the existing problems in Georgia's constitutionalism are related to the competent boundaries of the Constitutional Regulations of the Head of State (Kverenchkhiladze, 2012). The issue of the president's authority in international representation is one of such problems. The conflict between the president of Georgia and the government of Georgia related to representation in international relations has risen before, becoming particularly relevant since the 2010 constitutional reform. From the adoption of the Constitution of Georgia in 1995 until the 2010 constitutional reform, the president of Georgia directed and implemented domestic and foreign policy of the state, and was the supreme representative of the state in foreign relations. Due to this function, based on Article 73(1)(a) of the constitutional edition of Georgia in those days, the president of Georgia was eligible to conclude international treaties and agreements, negotiate with foreign states, and appoint and dismiss Georgia's ambassadors and other diplomatic representatives with the parliament's approval. The norms granting the president of Georgia foreign authority did not change in the Constitution under the 2004 constitutional reform, when the presidential model was replaced by a semi-presidential model (Constitutional Law of Georgia, 2004).

The 2010 constitutional reform significantly affected the president's constitutional status (Kverenchkhiladze, 2012). The authority of conducting foreign policy was transferred from the president to the government under Article 78(1) of the 2013 edition of the Constitution of Georgia. However, the president, as the head of state, retained the authority of representation in foreign relations. In particular, Article 69(3) of the Constitution stated that the president of Georgia represented Georgia in foreign relations. Therefore, Article 78(4) of the Constitution stated that the prime minister and ministers represented Georgia in foreign relations within their scope of competences. A certain ambiguity was introduced by Article 73(1)(a) of the Constitution of Georgia, according to which the president, in coordination with the government negotiated with other states and international organisations,

concluded international treaties and agreements, which in accordance with Article 65(1[1]) required a countersignature of the prime minister. Despite such a seemingly clear transcript, the Venice Commission voiced concerns, considering it unjustifiable to grant the president the authority to conclude international treaties, even in coordination with the government. Moreover, the Commission believed that it contradicted the constitutional norm establishing a conduct of foreign policy by the government and it assumed that the necessity of the government approval would not eliminate but increase a risk of the conflict between the government and the president in its turn. (Final Opinion on the Draft Constitutional Law, CDL-AD(2010)028)

In response, a group of scholars developed an opinion that a clear separation of foreign authority at the constitutional level would be quite challenging between the president, on the one hand, as the head of state and state representative, and on the other hand, the government as the implementing body of foreign policy, as it would be regulated by current legislation and common practice (Kverenchkhiladze, 2012). Some scholars, even though they considered it controversial whether signing of international agreements would be president's exclusive responsibility in this field, unambiguously concluded that the president could not act independently in foreign affairs due to the obligation of countersignature. Such a conclusion was not only based on a relevant normative analysis of the Constitution but the spirit of general constitutional changes that the reform aimed at limiting the powers of the president (Babeck, Erfurth & Steinrötter, 2015). Some pointed at the inconsistency of the norm defining the president's role in foreign relations (Zurabashvili, 2016).

2.2 The first contradictions between the president of Georgia and the government

The legal ambiguity of the regime regarding international representation, caused by the amendments to the Constitution in 2010, was soon reflected in the relations between the president of Georgia and the prime minister, leading to a conflict. The 2010 constitutional amendments related to the president and the government entered into force by the end of 2013, once after the newly elected president took the oath. The need for the first "check" of the disputable norms emerged relatively soon. On July 27, 2014, Georgia signed the Association Agreement with the European Union, but before signing, a question arose regarding who would have signed the agreement—the president or the prime minister? Of course, both the president and the prime

minister were willing to sign the historic agreement for Georgia. President Margvelashvili, one month prior to signing the agreement, declared that the president of Georgia, as the head of state, would have signed the agreement, as it was within his authority according to the Constitution. A few days later, Prime Minister of Georgia Irakli Gharibashvili stated that the government of Georgia and the parliamentary majority had discussed and decided that signing the Association Agreement was within the authority of the prime minister and, hence, should be signed by him. On May 27 of the same year, President Margvelashvili issued a decree authorising the prime minister of Georgia to sign the agreement. The decree required a countersignature of the prime minister, which he refused to sign on the grounds that he already had this competence and did not need to be granted any additional authority (Zurabashvili, 2016). Ultimately, the Association Agreement was signed by the prime minister of Georgia.

Based on the analysis of the existing legal norms for that period, it can be said that the president's position in this dispute was more justified, which was supported by several arguments. First we should ask—if there was no such norm in the Constitution, was the prime minister eligible to conclude the international agreement? Article 73(1)(a) of the edition of the Constitution of Georgia of those days pointed out directly that the president of Georgia was entitled to conclude the international agreement. However, it could be said that, to conclude the international agreement was the president's exclusive right, as Article 65(1^1) differentiated between international agreements and treaties from those concluded by the president. If the government of Georgia applied to the parliament for ratification, denunciation, and annulment of other international agreements and treaties, in the case of treaty (agreement) concluded by the president, the president should have applied to the parliament for its ratification, denunciation, and annulment right after the mandatory countersignature of the prime minister. Thus, according to the Constitution, other entities besides the president, notably the government and the prime minister, were eligible to conclude international agreements as well because, according to the first paragraph of Article 78 of the same Constitution, the government of Georgia was the supreme body of executive power implementing the country's domestic and foreign policy. An additional argument for the abovementioned issue is Article 11^1(2) of the Law of Georgia 'On the Structures, Powers and Procedures for the Activities of the Government of Georgia,' according to which the prime minister and the minister of foreign affairs of Georgia were eligible to carry out any activities related to concluding international agreements without presenting full

authority. However, here arises another question: what kind of agreements was the prime minister eligible to conclude? Was he eligible to conclude any international agreement on behalf of Georgia? Under Article 78(4) of the edition of the Constitution of Georgia of those days, the prime minister and the ministers represented Georgia in foreign relations in the scope of their competences. Under Article 8(2)(L) of the already mentioned Law of Georgia 'On the Structures, Powers and Procedures for the Activities of the Government of Georgia,' the prime minister represented the government in relations with other state entities and international organisations. Thus, it could be said that the prime minister could conclude such international agreements that did not go beyond the scope of competence of the executive power.

And the last question: was the prime minister eligible, within the scope of his competence, to sign the Association Agreement with the European Union? Association Agreement, in its essence, is a comprehensive agreement which affects almost all spheres of state life, including cooperation among courts (Art. 21), cooperation between Georgia and parliaments of the European Union within the framework of the Parliamentary Association Committee (Arts. 410–411), etc. That is, the Association Agreement with the European Union exceeded the scope of the executive powers' competence. Because of this, president, the head of Georgia, should have concluded the agreement, as his authority concluding representative and international agreement was not limited by the sphere of activities, although before concluding such agreement, it needed the government's approval, after concluding it was necessary to have a countersignature of the prime minister and ratification by the parliament. So, we can conclude that, according to the logic of the Constitution, the conclusion and implementation of an international agreement of general state importance which was beyond the scope of competence of one body or the government, three branches should have been involved: the president—the government—the parliament. Just because it was politically decided that the prime minister should have signed the Association Agreement with the European Union, the president did the right thing when he issued a decree granting the prime minister of Georgia authority to conclude the Association Agreement, in order to formally ensure the involvement of the abovementioned triad.

The incident of signing the Association Agreement with the European Union was not the only conflict between the president of Georgia and the prime minister. On September 24 that same year, the Georgian delegation was invited to participate in the 69th session of the General Assembly of the

United Nations, which took place in New York. The president of Georgia expressed his intention to attend the event and lead the Georgian delegation, a decision that subjected him to criticism on more than one occasion. The president of Georgia gave up his position and the prime minister led the Georgian delegation to the UN. (*Radio Free Europe / Radio Liberty*, 2014) In contrast, a curios case happened a year later, in September 2015, when two Georgian delegations travelled to New York, one led by the president of Georgia and the other by the prime minster of Georgia. Both delegations held meetings separately within the framework of the 70th session of General Assembly of the United Nations; however, the prime minister of Georgia delivered a speech at the session (Kunchulia, 2015).

2.3 The president's representation in international relations under the 2017–2018 constitutional reform

In 2017–2018, another constitutional reform was implemented in Georgia. The reform mainly aimed at providing the full compliance of the Constitution with the fundamental principles of the constitutional law typical for a parliamentary republic (Khetsuriani, 2018). Along with a positive assessment, the Venice Commission had important remarks regarding both the draft law's formation process and the content of the Constitution itself. The Commission voiced concerns about not having taken any of its previously issued recommendations into account. The Commission's remarks were about partial retention of the majoritarian system for electing parliament, the high electoral threshold of the proportional system, an exclusive authority of the government to work out the state budget with the nominal right of the parliament to participate in the process, etc. (Opinion on the draft, CDL-AD(2017)023-e). However, it should be noted that the Commission did not have any remarks about the separation of the authority between the president and the government, which had always been a subject of criticism and controversy. Perhaps partially, according to some opinions, this reform ended the transition process to the parliamentary model and eradicated previously existing flaws in the Constitution (Khetsuriani, 2018).

Under the 2017–2018 reform, the general concept of the Constitution remained the same, but technically it was revised, reduced, and rearranged (Gegenava, 2021). The scope of the Constitution was reduced from 109 articles to 78, which technically resulted in rearranging of the then existing articles. Accordingly, the numbering and content of regulatory articles of the president and the government were changed. Foreign representative

authority underwent small contextual changes as well. While previously, the president required agreement between the president and the government in order to exercise international representative authority, according to the new edition (Art. 52(1)(A)), the word "agreement" was replaced with "approval," that is, the president could exercise the abovementioned authority with the government's approval. The part regarding the authority of the government of Georgia underwent changes as well. In particular, under Article 55(3) of the new edition, the prime minister represents Georgia in foreign relations and concludes international agreements on behalf of Georgia. So, the norm which limited the representation of the prime minister and the ministers in foreign relations in the scope of their competence, was removed from the Constitution.

The logic behind these changes is quite clear—they aimed at defining the prime minister as the only supreme representative in foreign relations. Accordingly, the norm related to ratification and denunciation of international agreements was also rearranged, so that previously international agreements were divided into "concluded by the president" and "other" international agreements, with different procedures for each. Article 47(1) of the new edition, which regulates the same issue, neither divides international relations into types nor sets different procedures for their ratification and denunciation.

3. Article 78 of the Constitution of Georgia: European integration and constitutional bodies

The 2017–2018 constitutional reform not only changed the contents of the Constitution of Georgia, but also introduced significant formal-structural changes. It revised a number of chapters and articles of the Constitution, resulting in a form completely different from the original edition (Constitutional Law of Georgia, 2017). The issue regarding Georgia's European integration has emerged more than once during the parliamentary discussions of the constitutional amendments. Political opposition and a significant part of the voters, concerned about potential change in the country's political course, demanded certain legal and constitutional guarantees (Berekashvili, 2017; *Civil.ge*, 2017) to ensure that the changing of the international course, once supported by the majority of population in the 2008 plebiscite (Summary Report, 2008), would not depend on the

political preference of certain ruling powers or leaders. Because of this, as a result of the parliamentary discussions, it was decided to add Article 78 of the new edition to the Constitutional draft law, titled 'Integration in European and Euro-Atlantic Structures,' which in turn, would be included in specially added Chapter 11, 'Transitional Provisions.' Being included in transitional provisions of the provision itself was mainly due to the fact that the purpose set by the norm was temporary and would expire after integration in the European Union and NATO (as it is a long and complicated process, there is still time, determined and ending, but in this case, the validity of the Constitution is presumed indefinite until amendments or cancellation).

Article 78 of the Constitution of Georgia has repeatedly been the main subject for political debates, because every other political player seeks to turn it into a source of legitimacy for their personal positions. Regarding the impeachment of the president, this norm is not merely symbolic. However, the parliament of Georgia does not emphasise on it in its constitutional submission on impeachment (which is completely logical, since in this case, it would underline the fact that its motivation does not refer to the president's actions in international relations that are not coordinated with the government) (Constitutional Reference no. 1797). However, the president of Georgia considers Article 78 as a defining and core norm for his foreign political activism (Zurabishvili, 2023a; 2023b).

Article 78 of the Constitution of Georgia is a mandatory, demanding provision in its content, which has specific addressees. According to the provision, the constitutional bodies of Georgia have taken all measures within their authority to ensure Georgia's full integration into the European Union and North Atlantic Treaty Organisation. In this case, the constitutional bodies are clearly identified in the Constitution of Georgia—the president of Georgia, the government, and the parliament. While the norm is very general and its content does not give any practical possibility to identify any specific obligations, it is very significant from an emotional or political point of view. A key effort to reach a goal has a remarkable locking mechanism, represented by the phrase "within their authority." This wording defines the main scope of activities of the constitutional bodies: in order to achieve this goal, they should not understand their discretion in a way that would violate the principle of separating the powers, or invade the authority of other branches of the Government or bodies. Therefore, Article 78 is of high importance, though it cannot be superior to other articles of the basic law. According to the assessment of the Constitutional Court of Georgia, the Constitution of Georgia does not encompass so-called unchangeable norms, thus it does not establish any types of inner hierarchy among constitutional

norms (Ruling 2/2/486; Ruling 1/3/523; Decision 1/1/549; Gegenava, 2014). That is why Article 78 can be neither interpreted independently nor have any content in isolation from other norms. It will be definitely interpreted and used within the system of other norms as a result of analysing the authority of the constitutional bodies, as this is the only possible way.

4. Impeachment of the president

On September 14, 2023, the constitutional submission of 80 members of the parliament 'Regarding Impeachment of the President of Georgia' was registered in the Constitutional Court of Georgia. According to the submission, President of Georgia Salome Zurabishvili had conducted three working visits without the government's approval (with the president of the Federal Republic of Germany, August 31, 2023, Germany; with the president of the European Union, September 1, 2023, the Kingdom of Belgium; and with the president of France, September 6, 2023, France). During the visit, the president held working meetings and negotiations, thus violating the requirements of the Constitution (Constitutional Reference 1797).

The submission was based on the following circumstances: according to Article 54(1) of the current edition of the Constitution of Georgia, the government of Georgia is a supreme body of the executive power implementing the country's domestic and foreign policy, over which it holds exclusive authority. As for the president of Georgia, she is only eligible to exercise the representative authority in foreign relations and negotiate with other states and international organisations only with the government's approval. Nevertheless, the president of Georgia did not consider this requirement. The president applied to the government of Georgia for approval for a visit to Germany, but having been denied the approval, proceeded with the mentioned visit anyway. As for the two subsequent visits, the president of Georgia visited the mentioned countries and negotiated in such a way that she did not even apply to the government of Georgia for approval (Constitutional Reference 1797). Evidence presented included documentation confirming the president's visits and audio-recordings of the meetings of the State Constitutional Commission, creating the 2017–2018 Constitutional reforms draft through Resolution 65-I of the Parliament of Georgia on December 15, 2016. Which, probably, according to the authors of the submission, would contribute to the correct interpretation of the constitutional norms.

Some amicus curiae were presented during the review of the impeachment who had a similar position regarding the president's foreign representation and did not consider the official meetings held by President Zurabishvili as a violation of the Constitution (unlike the members of the parliament who initiated the impeachment).

The Constitutional Court of Georgia found the president's action to be in violation of the Constitution. Under Article 52(1)(A), international visits and meetings with presidents of the Federal Republic of Germany and France, as well as of the European Council, needed official government approval (Conclusion 3/1/1797). In fact, conducting the foreign representation by the president and the government approval in this process was transformed into a formal and procedural issue by the Court's majority (Amicus Curiae, 2023a–c). The Court, in its assessment, artificially separated law and politics and interpreted the Constitution only in a formal and narrow positive legal context. According to the different opinions of three judges, the importance of the judicial control in this process was insulted by considering the violation of the Constitution as a basis for impeachment by the Constitution of Georgia to a formal violation of any degree (Dissenting Opinion, 2023). According to the assessment of the judges with different opinions, the president of Georgia did not violate the Constitution of Georgia, and her foreign representation was fully in compliance with the foreign policy of the government (Dissenting Opinion, 2023).

Another important issue evaluating the president's foreign representation without the government's approval is the burden of proof and evaluation of actual evidence. The constitutional proceedings related to the impeachment are specific and, unlike the control over the constitutionality of the norm, the Constitutional Court has to examine factual circumstances and use the classical methodology for activity qualification (Gegenava *et al.*, 2021; Khetsuriani, 2015; Gotsiridze, 2015; Gegenava, 2012; Kakhiani, 2011). In this case, more attention should be paid to the visits and content of the visits of the president of Georgia than on the interpretation of the norms of the Constitution, as these visits were considered as violation of the Constitution. Indeed, as the Constitutional Court did not have direct access to the content of the meetings and was just informed about the fact only, the meeting itself (the detailed content of which is unknown, only the version of President Zurabishvili is available) was considered as violation of the Constitution. This sets quite a dangerous precedent, as along with this interpretation, the supreme defender of the Constitution, the Constitutional Court, fully bound the head of state to the government of Georgia in matters of foreign relations,

thereby rendering a significant part of the president's constitutional status meaningless.

5. The status and responsibility of the president of Georgia in foreign relations

The arguments of both initiators of the impeachment of the president, as well as the president herself, derive from the presidential status in foreign relations. Under Article 49(3) of the Constitution of Georgia, the president of Georgia represents the country in foreign relations. This constitutional provision defines one private issue of the constitutional status of the president of Georgia, though this norm was not interpreted separately. However, other provisions of the basic law refer to exercising this authority (Gegenava *et al.*, 2021). Accordingly, the presidential mandate in foreign relations cannot be understood in isolation, since Article 49(3) alone is just a general regulation and does not determine tangible authority (it would be different if there was no other specific norm regarding representation of the state and participating in international relations in the Constitution).

Article 52(1)(A) of the Constitution of Georgia clarifies the representative authority of the president and refers its implementation to "the government's approval." Therefore, the norm specifies what is considered representative authority in foreign relations: negotiation with other states and international organisations, accreditation of ambassadors of other states and other diplomatic representatives; appointment and dismissal of Georgian ambassadors and heads of diplomatic representatives upon the government's recommendation. In this case, the main challenge is to understand "the government's approval," in what form it is given, and how specific it is in the context of authority implementation. The official approval of the government is manifested by a legal act, issued by the government as a collegial body.

It is very important to understand what is meant by the issuance of the government's approval at the operational level. Although Article 52(1)(A) of the Constitution of Georgia includes a list of authority, the interpretation of the authority itself and the necessity for relevant approval in practice is entrusted to the discretion of the president and the government, as the authentic interpreters (Troper, 2006) of the norm are the users of this constitutional provision.

Transforming the element of approval to sanctioning the president's every action by the government is wrong, since it would completely deprive the Constitution of the political element. Undoubtedly, the president should obtain the government's approval regarding the main directions of foreign policy, as well as official representation, however, ongoing issues related to foreign relations such as daily protocol tasks (telephone calls, formal receptions and dinners, informal meetings, etc.) by all means do not need the approval. Imposing such a requirement would hold the president in legal captivity and completely negate the idea of foreign representation as the head of state. If the spirit and idea of the Constitution would be concentrated on the above-mentioned aspect, the president should not have been granted the authority to represent the state in foreign relations in the constitutional status.

In the practical implementation of the official foreign policy of the state, for the president to act in accordance with this policy, either through legal or political obligations, it is likely that he/she acts in accordance with the Constitution. By all means, the president of Georgia does not have any freedom in acting independently in any case, as neither their constitutional status nor their place in the hierarchy of constitutional bodies allow them to be considered an independent actor implementing foreign policy. However, on the other hand, it is unthinkable that a head of state does not have any capacity to act in the framework of the policy, defined by the parliament and the government, to hold official meetings (moreover, if these meetings are more likely to be symbolic or emotional and entail neither any obligations nor represent the official position of the state, etc.). The issue of how to distinguish between actions that need approval from those that do not is especially problematic. In this case, there is neither exact nor universal formula, although the general provisions of the Constitution introduce such problems and collisions. It would be desirable if the basic law provided more specific formulation and regulated important issues, such as foreign representation, unambiguously. It is impossible to predict the scope of the president's action in foreign representation based on the current configuration of the state and political arrangement of Georgia.

Considering the political factor is very important, as the Constitution is first a political document and then a legal instrument shaping this political idea. Accordingly, based on the smooth functioning of political institutions in the context of the president's authority in foreign representation, it can be said that the head of state needs the government's approval for foreign representation if it involves exercise of real political powers. If the presidential meetings and visits follow the official course of the state and are not held to resolve some specific issue, do not involve result-oriented negotiations, and

have the so-called ceremonial features defined by the diplomatic protocol, the president does not need the government's approval. In any other case, the president is limited to independently conducting foreign policy and, in this context, exercising the foreign representation of the state.

For more transparency, it is desirable that the Constitution of Georgia, with more clarity and articulation, provided the president with the capability to conduct foreign representation in the format of special authority, since it is completely odd and a throwback to the previous editions to include foreign representation in the president's constitutional status in the basic law. What has been described above complicates and makes the issue even more ambiguous.

6. Conclusion

The problems and challenges for every state in transition are similar, and Georgia is no exception. Legal fulfilment of obligations under the Association Agreement is not sufficient for successful European integration. Every aspect and direction of political life should not be oriented on formal but contextual and profound integration into the European environment. Political controversy among the executors of executive powers, especially regarding foreign representation, harms rather than contributes to the European integration process. The formal definition of political pluralism cannot outweigh the harm caused by constitutional inconveniences.

The idea of foreign representation of the president of Georgia went through significant transformation since the adoption of the Constitution in 1995. Supreme representation of the presidential status was narrowed down to general representation. As has been described above, a controversy related to foreign representation emerged between the president and the government. Several basic conclusions can be drawn, based on the analysis of the constitutional provisions and the constitutional practice:

1. The general transcript of Article 49(3) of the Constitution of Georgia cannot be interpreted without Article 52(1)(A). They should be interpreted jointly and systematically. The president's constitutional status would be possible to interpret independently only if there was no specific norm regarding the form of implementation of foreign representation;

2. The president, as a foreign representative, needs the government's approval to implement foreign representation. Such approval should be granted through a government's legal act. Therefore, there would be no need for approval for routine protocol meetings and issues in the framework of the state's foreign course, since in such a case the president's representative authority would no longer make any sense. The formulation of constitutional norms and their conceptualisation should have been different if legislation aimed at coordinating every action of the head of state with the government—special authority and the scope of activities with *numerus clausus* would have been determined for the president;
3. Mere protocol meetings with other states would not be considered as implementing foreign representation without the government's approval. If it is impossible to determine the exact content of these meetings as well as discussed issues and relative political consequences, it is impossible for the Constitutional Court to evaluate the constitutionalism of the president's actions. The Constitutional Court of Georgia, in its legal opinion of the impeachment of the president, on the one hand, wrongly interpreted the authority of foreign representation and its functional scope, and on the other hand, evaluated the factual situation without sufficient information and details. Therefore, it limited the president's foreign representation and, by artificially distancing the political issues from law, the status of the head of state was reduced to protocol and formal level, making the president a "legal captive" of the government;
4. Contribution to the European integration and Article 78 of the Constitution of Georgia, which obligate every constitutional body to take all measures to ensure Georgia's integration in the European Union and NATO, cannot be considered as generally justifiable arguments for the president of Georgia in carrying out foreign policy and exercising foreign representation without the government's approval. There is no inner hierarchy among the constitutional provisions; moreover, the norm included in transitional provisions can never be superior to any other constitutional norm. Therefore, Article 78 defines the obligations of constitutional bodies, however, their implementation is determined within the scope of each body's authority. Such authorities are included in other norms and everyone should act according to these;
5. It is desirable that the Constitution of Georgia proposed a precise definition of the limited status and authority of the president's foreign representation to avoid political speculations in the future, and link it directly to the representative activities of the government in conducting

foreign policy, which would be proportional to the constitutional status of the president elected in indirect voting from 2024.

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