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XVI Конгресс Конференции европейских конституционных судов

**Synthèse / Summary / Kurzfassung / резюме**

**GÉORGIE / GEORGIA / GEORGIEN / ГРУЗИЯ**

The Constitutional Court of Georgia  
Sakartvelos Sakonstitutsio Sasamartlo

**Anglais / English / Englisch / английский**

## Cooperation of Constitutional Courts in Europe –

### Current Situation and Perspectives

#### Questionnaire for the national reports

#### Report of the Constitutional Court of Georgia

The Constitution of Georgia of 1995 has introduced a number of innovations into the Georgian Legal system. Among these changes is the determination of the role of the international treaties in the national legislation. The Constitution has determined the international treaties, to which Georgia is a party, become part of national legislation, which individuals and legal entities may directly invoke before national institutions, including courts, to protect their rights. International Treaties are higher in hierarchy than Georgian laws, except for the Constitution and Constitutional Agreement. The legal status of international treaties in the legislation of Georgia is determined by several legal acts: 1) Paragraph 2 of article 6 of the Constitution of Georgia, ***“an international treaty or agreement of Georgia, if it does not contradict the Constitution of Georgia or the Constitutional Agreement, has superior legal power over domestic legislation”***. 2) the law on normative acts of Georgia refers to article 6 of the Constitution with regard to the status of an international treaty in the Georgian legal system. Under Article 4 of the Law, ***an international agreement or a treaty is a normative act of Georgia.***

The jurisdiction of the Constitutional Court of Georgia extends to all types of international treaties. According to the basic law of Georgia, the Constitutional Court of Georgia ***“Considers disputes connected with questions of the Constitutionality of treaties and international agreements*** (sub paragraph “e” of the first paragraph of Article 89). Paragraph 4 of Article 65 of the Constitution states clearly that the constitutionality of an international treaty can be checked prior to its ratification. This norm of the basic law reads:” ***In the case of lodging a constitutional claim or constitutional submission to the Constitutional Court it is impermissible to ratify a relevant international treaty or agreement prior to the decision made by the Constitutional Court”***. Legislative definition of this competence is given also in the organic law “on the Constitutional Court of Georgia , according to which, on the basis of a constitutional claim or constitutional submission it is empowered to consider and decide “the question of the Constitutionality of international treaties and agreements” (***sub paragraph “f” of paragraph 1 of Article 19***).

As Georgia is not member state of European Union Constitutional Court of Georgia is not statutory obliged to consider European law and decisions by European Courts of Justice in the performance of its duties. The jurisprudence of the Constitutional Court of Georgia includes examples of the references to international sources of law, such as European Convention of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

In the judgments of the Constitutional Court of Georgia numerous references can be found to the jurisprudence of the European Court of Human Rights. The most significant example is the case of conscience objection to the military service. The court declared right to conscience objection constitutionally protected and referred to the Grand Chamber case of the European Court of Human Rights (BAYATYAN v. ARMENIA, Application no. 23459/03).

The case law of the foreign Constitutional Courts (e.g. Federal Constitutional Court of Germany. US Supreme Court) also plays an important role in the jurisprudence of the Constitutional Court of Georgia.

**International Cooperation:** Constitutional Court of Georgia mutually collaborates with the Constitutional Courts of foreign countries and bodies of relevant jurisdiction in the format of conferences, workshops, informational visits, round table discussions. The Court is a member of various internationally recognized networks, such as the European Commission through Law (Venice Commission of the Council of Europe); Conference of the European Constitutional Courts; World Conference on Constitutional Justice. In 2014, following the Austrian Constitutional Court, the Constitutional Court of Georgia, will chair the Conference of the European Constitutional Courts. Consequently, in 2014-2017, all the high-level events including the Congress of the European Constitutional Courts will be held in Batumi, hometown of the Constitutional Court. Also, the staff members of the Courts regularly participate in the Joint Council on Constitutional Justice of the Venice Commission of the Council of Europe.