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Editor's position may not coincide with that of authors. Authors are responsible for the facts and data in the article.

CONTENT

LAW

CONSUMER'S CONTRACTUAL PROTECTION SCOPE IN EUROPEAN DIRECTIVE AND GEORGIA'S JUDICIAL SPACE

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Abstract

The article focusing on "Consumer's contractual protection scope in European directive and Georgia's judicial space" determines the consumer's legal place in the contractual space, where both parties' autonomy exists in the most effective way. It is the truth that expressing the will gives the consumer power to avoid exploitative arrangements, nevertheless, the "weaker party" is often deprived of the opportunity to get acquainted with every article of the agreement at the pre-contract negotiation stage. Moreover, the customer is often left with no choice but to join the contract.

Precisely the government should balance the rights of weak and strong sides, it must protect citizens from unfair contractual terms.

In 2014 Georgia took a big step towards European integration when it signed the Association Agreement. The 13th chapter obligates the country to protect and ensure the realization of consumer's rights.

In the article, we review specific EU directives with the comparative-legislative methods, that establish principal definitions of protection against unfair contractual terms to the countries. The article also contains directives about consumer rights and conceptual issues of the credit line directives.

The article demonstrates the interpretation of the court of justice, the approach to national legislation and international practice, that will ultimately help the target group to understand and protect the principles of consumer rights.

The presented article is a big step forward to strengthening the field of "consumer rights".

Keywords: weak party, corporative piercing, incorporation, harmonization plan, directive, regulation, Euro commission.

Introduction

In terms of legal and economical aspects, Georgia is a developing country and always strives towards introducing new ideas and regulations. It is working on becoming a member of an international organization – the European Union, for which consumer's rights are in priority. European Union's functional agreement directly emphasizes the obligation of protecting consumer's rights for their respective member countries, which is a certain signal for creating an appropriate legislative database.

Consumer rights are violated on a daily basis in terms of banking, public services, or trading. There is an extremely alarming situation with banking/financial systems, where arranging exploitative contracts appears as an ordinary fact. What levers does the customer have to protect his own rights? How can the government

secure their business subjects in a legislative frame, so it won't disturb the balance between free trading relations and consumer's rights?

Due to the relevance of the theme, it is interesting to observe the guarantees of consumer protection in terms of freedom agreement, active directives in EU's law systems, and their impact on court authorities.

Furthermore, the article discusses the role of association's agreement in national law, as well as evaluation of consumer's protection standards due to curt decision analysis.

Topics that are being observed in the thesis will help practicing lawyers, judges, and specialists in the field to "protect consumer's rights."

1. Agreement freedom towards consumer's rights

The principle of agreement freedom is the fundamental principle for developing Georgia's civil legislation. With its essence and the autonomous principle of will, it gives a boost to economic indicators, stabilizes civil rotation, and minimizes the origination of risk disputes. By granting the parties with agreement freedom, we are heading towards the development of civil law institutions, because with existing evidence and court's decision it is possible to improve the standards and realize it in practice. Agreement freedom is also regulated on a legislative level, in particular, according to the first part of Article 319 of the Civil Code, the parties are free to determine not only the form of the transaction, but also the content. The only requirement of the legislation is that the object of the contract must be complied with the imperative framework of the law.

Despite its high legal interest, agreement freedom is not absolute in its nature, in some judicial cases, it can be restricted. According to Article 346 of the Civil Code, a standard condition of a contract that goes against the principles of trust and good faith and thus unequivocally harms the other party is void.

It is the truth that the legislator grants both parties unlimited rights in terms of civil rotation, especially in the agreement freedom aspect, however, it imperatively prohibits any transactions directed against trust and conscientiousness, but unfortunately, it is not a rare occurrence in Georgian reality.

Despite the general notion of conscientiousness, I may find common elements and define legislator's will, whereas considering the aspect of agreement freedom there should not occur oppression of the party or harmful definition of the conditions. If taking Georgia's practice example, exploitative deals take an active place in the civil rotation, which is used against consumers and are reviewed as if they remain agreement freedom.

Indeed, there is no member of society, regardless of his social status, who won't use his consumer's rights. Everyone arranges various contracts with entrepreneurs in everyday life, however, in most cases, we don't understand the context of those contracts. The majority of society doesn't analyze the content of the agreement when they make a deal and they only notice their weak points when they face undesirable facts.

This is understandable because as an example the level of legal self-awareness in most countries is fairly low. European Court of Justice states, that the consumer's side is a weaker one compared to the seller or the supplier taking into consideration the market power and information flow. Consequently, the consumer is always in the need of help, when the strongest party or entrepreneur arranges the contract with the consumer, in plenty of cases he uses the consumer's ignorance of the law to his advantage, besides with no commercial knowledge,

or lack of information about the subject of the arrangement, etc.[1] What is the government's interest in protecting consumer's rights and which legally regulated kindness does it represent?

Protection of consumer's rights is directly connected with the development of civil rotation. In turn, the market is regulated by the interaction of its supply and demand and their subjects playing their roles on the marketplace as consumer transaction's parts – consumer and contractor. The consumer law is very sensitive towards the consumer and protecting his rights is of utmost importance. That being the case is the result of typical approaches of the modern world, owing to the fact that modern law recognizes the supremacy of an individual, and definitive factors of the supremacy of an individual are the maximum realization of their rights and freedom. Therefore, consumer's special defense and creating strong guarantees for the protection affects the growth and development of the market, healthy competition.[2]

Both a physical person and a juridical person can use a consumer's status, nevertheless, it will be more accurate to point out that the physical person is the weaker party. He is in the need of a higher standard of legal defense from the government because when a juridical person buys goods, his interests are represented by lawyers, and that minimizes the risk of becoming a victim. This is why the physical person is being emphasized.

As it's well know , that by putting exploitative terms in the agreement, the strongest part violates not only consumer's rights but also the fundamental principle of civil law – "conscientiousness". There are examples in the practice when with agreement freedom and using bilateral will unconscientious party is wittily constrained. Hence, it is interesting where is the border between the conscientiousness principle and agreement freedom and what levers do they have for legal defense? First of all, we must explain the concept of conscientiousness and its signs.

2. Conscientiousness principle in contract law

In modern Georgian legal space conscientiousness became a substantive legal norm and united into the legal system that relies upon justice and equality, therefore it gained wider definition. The conscientiousness principle is commonly connected with moral standards according to the legislation and doctrines of the modern developed countries. Article II of the Civil Code 361 considers this: "Obligation must be carried out properly, with conscientiousness, at the appointed time and place".[3] With this arrangement legislator obliged both subjects carrying out a contractual relationship to act conscientiously. The various functions of the conscientiousness principle were used to help Judicial Law carry out fair verdicts and at the same time avoid unjust results.[4]

How can we qualify a person's actions as unfair? For any vise person, his actions must include preliminary signs of intentional guilt, because his actions transparently show the violation of the existing principle.

Under Article 8 of the Civil Code, civil law contractors are obliged to exercise their rights and duties in good faith.This regulation defined conscientiousness as a mandatory component for the agreements, despite the conditions that the parties choose, this must be executed as a matter of priority. Defined article is imperative and parties can't eliminate it.

[1] E. Kardava, Defending consumer's rights, a comparative legal review of European Standards on the example of a street contract, Review of Georgian Law, 2007, 126.
[2] Ibid., P 122.
[3] Article 361 of the Georgian Civil Code, Parliament statements, 31, 24.07.1997.
[4] A. Ioseliani, The conscientiousness principle in a Contract Law (Comparative-legal research), Review of Georgian Law, Special edition, Tbilisi, 2007, 12.

It should be noted that the present norms provide for the legitimacy of civil turnover. In addition to the above, the obligation to conduct private legal relations in good faith is imperatively indicated by a number of norms of the Civil Code, however, it should be noted that the definition of a vague norm is still based on the principle of good faith and requires its indirect interpretation. The function of the principle of good faith is not to oppose the interests of the contractors, but to protect them, which creates a kind of solidarity in the legal space. It is also a presumption of duty. Good faith means the actions of the participants in civil turnover to treat them responsibly and with respect for each other's rights. Based on the principle of good faith, both law and contract deficiencies are eliminated.

The conscientiousness principle is consolidated in international treaty and agreement, in particular, the Vienna Convention on the Law of Treaties, where Georgia openly admits the conscientiousness principle and emphasizes with 1st Article of Civil Code 31 that: "The agreement must be defined fairly according to the usual meaning, resulting from the agreement object and its goals, therefore the terms of the contract should be given in their context".[5] The judgment stated above follows that the conscientiousness principle must not be neglected in civil relations. During the implementation of agreement freedom, the legislator grants the party great power, so he can conduct the civil rotation himself, arrange any kind of legal contract without boundaries and define his conditions. Nevertheless, despite the granted freedom, the party is bounded with constraint, he is obliged to act with conscientiousness and follow the common principles. In Anglo-American countries, most of the law courts judge the defendant with two different standards if the defendant acted with conscientiousness or not.[6] This means that the party acted with honesty and not arbitrarily if he was cooperating with another party to achieve his goals.[7] Common law countries review the conscientiousness principle in the context of corporate law, more specifically, if the head of

a company or an authorized person acted with honesty when they violated their contract with a third party. The so-called "Business Judgment Rule" protects the head of the company with a corporate "cloak" and throws the load of proving his unfair actions on the plaintiff. The main purpose of my article is to point out the consumer-oriented contractual relationship in EU law, which protects "weakest party's" interests so firmly and in detail. It is interesting to review the prehistory of the origin of consumer rights.

3. The origin of consumer rights in the EU

World globalization and the development of the International Business Sector caused the establishment of consumer rights mechanisms.

"Each one of us is a consumer" – those words coming from president Kennedy proceeded the universal recognition of the four fundamental consumer rights – obtaining the information, safety, choice, and representation.[8] The United States of America became the birthplace of consumer rights. In the 1950s European countries joined this activity and several International organizations were created to develop this field of law. The first organization for protecting consumer rights was established in Europe, in 1945 Denmark, as for England, in 1955 the government established "Consumer Council" at the state level, which assisted the injured party with trading relationships. The essence of the establishment of consumer rights is connected with the

[5] Vienna Convention on the Law of Treaties, 1st Article of Civil Code 31, N1/1-RS, Legislative Herald of Georgia, 11.12.2014.
[6] <http://www.rotlaw.com/legal-library/what-is-good-faith/> [L.s. 24.04.2017].
[7] https://www.accc.gov.au/business/franchising/acting-in-good-faith#more-information>Australian Competiotion& Consumer Commission, Acting in good faith. [L. s. 02.01.2021].
[8] T. Lakerbaia, European standard for informed consumers, Journal of Law, #1, 2015, 1461. (V vol., 28:29, 2006), 90.

development of the trading market, where we had buyer and seller, and the subject of the contract was represented by specific goods. The first real European normative act was the Treaty of Rome, which strictly specified consumer will at the legislative level.

The Maastricht Treaty played a crucial role in the present field of law, it was concluded on the 7th of February 1992. This act caused the European society's deep involvement, and in legal terms, it created real protective levers, which didn't exist before in any legislative acts. From 1990 European Commission provided 3 yearlong plans for harmonization, which contemplates several countries to ratification of the act and bringing closer local legislation.[9] The first harmonization plan had not brought a positive result because it contradicted with European countries' domestic legislative bases, those member countries hadn't wished to fully transform it.

The second harmonization plan was conducted in 1993-95, but the most effective appeared to become the third one, which was developed in 1996-97 and provided the introduction of a standard for consumer informing, it also developed a proper strategy to expand this policy.

EC Directive 85/574 With the implementation of this directive, the issue of the manufacturer's responsibility before the consumer for the damage it caused because of product defects, was developed for the first time in Italy.

The Legislative Decree 174/95 Consumer's withdrawal from the contract with fair conditions and guarantees was established in Italy. In most cases, the consumer couldn't ask for a fine at a contractual level, despite the delay in the contractual obligations of the seller. This problem was resolved with the previous act.[10]

In today's reality, there are active directives and regulations in European law. Directives are representing the traditional instruments of EU law, their implementation is obligatory for member countries, there are minimum (it consists of minimum protection standard and the country can decide which defensive mechanisms they want to choose for legislative acts) and maximum directives (maximum protection standard, it is directly emphasized by EU which directives must be implemented if the country wants to become the member) that EU imposes for developing country if it wishes to become EU member. As for regulations, they have mandatory roles, their implementation isn't necessary because they are already active for the member countries. They are becoming more and more actual/popular in EU law.

4. Regulations governing the contract law

4.1 Unfair contract terms directive 93/13/EEC

The given directive is very clear and imperative, it absolutely draws towards the protection of consumer's interests and distinctly sets prerequisites for existing standard terms. With its analysis, all norms that are not orally settled and confirmed with the consumer, which sets up another picture of existing practice – are a non-standard discipline and require oral explanation. An explanation must be organized in a clearly understandable language, be straightforward and the consumer must have an opportunity to consider it. As you may know, consumer contracts stand out with their capacity, and in many cases, even for lawyers, it is difficult to analyze the contracts in detail. Therefore, two obligations rest on the stronger side: 1. The text must be in a clearly understandable language, formulated with appropriate shrift, 2. All non-standard norms should be orally

[9] See. Il piano d'azione della Commissione CE, in "Rivista critica di Diritto Privato", II/94, p. 153.
[10] See <<https://www.nyulawglobal.org/globalex/International_Law_Consumer_Protection.html#_edn4>> [L. s. 04.01.2021].

explained to the consumer. This fact is emphasized by The European Court of Justice (ECJ) judicial practice which always recognized the power of the strongest party in terms of the contract.

The given directive had an amazing effect on the National Law when it put all the responsibility of explaining every non-standard norm, unfamiliar to the practice on the shoulders of the stronger party. Very often similar norms even contradicted the autonomy of the parties as well.[11] Therefore, it must be stated that in the future consumer himself won't be able to abuse his condition because the oral explanation of the norm standards is not obligatory for the second party.[12] In my opinion, the balance of power is logically distributed by the stated directive and it reasonably defends consumer's rights. The main purpose of the stated directive is to bring closer the Legal System of the member countries as well, to minimize unfair terms in contract law and fully harmonize mentioned imperatives. It is an interesting circumstance because the directive was implemented in 1993 and after all this time no addition or addendum was added to it. This directive can't impose the responsibility of control on the court, nevertheless, in case of dispute, it can definitely obligate the court to investigate if the standard norm was orally explained by the party. In the review of the Nordic legislature, Thomas Wilhensson expressed discontent in his article, where he underlined the difficulties of deciding who should take the responsibility for the oral explanation of this disputed norm, if it was implemented and if that kind of tools would be available on practice. According to him: "Despite the existing respect for the agreement freedom, unfair contract directive will resolve the problems we face in practice on a minimum level, it only organized the norms of non-standard agreements, when it implemented the responsibility of oral agreement. Besides, the corresponding limitation doesn't exist even in the appendices of CPA".[13]

4.2. The retail directive (99/44/EC,OJ L 171, 7.7.1999)

In the present directive chapter, we will review the activity scope of the retail directive, the mechanisms for their explanation, and various problematic topics that arise in the member countries.

As we see in the practice, there are three ways to implement the present directive. The first way is when the legislature's mechanism easily adapts this tool to existing practice, or it only "translates" with a separate act. On one hand, this minimalistic approach maintains the directive mode "as it is", without touching the outer system. On the other hand, in this case, the legislator ignores the accompanying problems of the mode, because the directive can't be reflected with simple translation and we won't receive any feedback on the existing sales problematics. Despite the existing difficulties some countries have chosen this way (those are: England, Italy, Scotland).

The second way is to incorporate the directive's imperative norms with internal regulations. As you may know, it is closely related to contract law, therefore some norms of the Civil Code will need to be adjusted in order to harmonize the existing version. This third version is the most daring one. This is a huge challenge for both the legislature and the academy. It is interesting to point out that it has been a long time that member countries tried to introduce new systems to the existing legislation, it turned out to be difficult for most of them to reconcile the current reforms with the old fundamental norms. Nevertheless, we must highlight those member

[11] A. M. Mancaleoni, 'The Obligation on Dutch and Italian Courts to Apply EU Law of Their Own Motion' (2016) 24 European Review of Private Law, Issue 3/4, pp. 553.
[12] See COUNCIL DIRECTIVE 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts 93/13/EEC.
[13] T. Wilhemsson, Implementation of the EC Directive on Unfair Contract Terms in Finland, The, 1997, Page 7.

countries, for example, Austria and Denmark that use this method and despite the differences, they went back to the old version.[14]

The confrontation between the fundamental systems of the given directive was caused by the issue of compensation for damage during a defective performance. As you may know, it sets the order for the exact way for a seller to resolve the problem. The first strategy is to mend/replace the item. A consumer can't directly cut off his deal and demand compensation for the damage, because he must consider the rules established by the relevant legislation.[15] Here we face the main problems. First of all, if the authorized seller has the right to claim the benefit received from the use of the item, and second – the problem of the regulations for damage compensation. In German codification, the seller's right to claim the product obtained while using the item is directly mentioned, but not every member country agrees with this approach.[16] As for the damage issue, English practice directly grants the consumer with the right to claim the damage compensation, the right to cut off their agreement and it does not impose any preconditions for the termination. Other member countries, including Georgia, in case of defective performance, don't give the right to terminate the contract immediately, they obligate even consumers to notify the company about the damage, allow them to make amends, and only request restoration of the original condition in extreme circumstances.[17]

4.3 Consumer credit directive -2008/48/EC

The goal of the directive's legislative proposal which was supposed to change 87/102/EEC, was implemented in September 2002. In April 2004 the European Parliament added a substantial correction to the text. The Commission published a modified proposal, which attachment/addendum should be fully accepted and which not.

In the future, the Commission came to the conclusion that they must exclude secured loans from the directive's purpose because the domestic market and General Directorate (DG Market) was going to propose mortgages in the new directive. The commission accepted the second modified proposal on the 7th of October 2005, in a format of consolidated text. The competition board accepted the political agreement on the directive on 21st May 2007. In the end, the European Parliament approved the modified text on the second hearing, which ended with the Council's approval of this text in April 2008.[18]

The main purpose of the present directive is to provide detailed information to the consumer when issuing a loan, protecting their rights, and ensuring the domestic market with better conditions. Its area of regulation is: A) Credit which will fit in between a minimum of 200 – maximum of 75 000 euros, nevertheless, those numbers aren't the minimum frame, the member countries can regulate them. B) Information that should be provided to the financial sector during the advertisement, the pre-contractual, and contractual negotiation process, all three phases are covered with its regulation. C) It gives the right to the member countries not to spread the directive's regime on the credit institutions if their credit contracts do not even makeup 1% of the credit agreements in the country. D) It obligates the member countries to evaluate consumer creditworthiness

[14] E. Hondius; C. Jeloschek, Towards a European Sales Law - Legal Challenges Posed by the Directive on the Sale of Consumer Goods and Associated Guarantees, 2001, page 158-159.
[15] See DIRECTIVE 1999/44/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, article 3.
[16] G. Capilli, Quelle Case: The Directive on the Sale of Consumer Goods at the European Court of Justice, 2010, 86-87.
[17] Ewoud Hondius; Christoph Jeloschek, Towards a European Sales Law - Legal Challenges Posed by the Directive on the Sale of Consumer Goods and Associated Guarantees, 2001, 160.
[18] Web address : <http://europa.eu/legislation_summ aries/consumers/protection_of_co nsumers/l32021_en.htm> [L.s.04.01.2021].

before they apply for the loan, E) Information delivery standard, which must be included in the article of the loan agreement, F) 14 days period for the customer to withdraw from the contract, when no penalty/sanctions are imposed on him, G) Fair and impartial regulation of the commission to be paid in advance, which depends on the loan extension, also on the minimum of the returned amount and its percentage (which doesn't have an impact on the root).[19]

4.4 2008/122/EC (Timeshare) Directive

The main idea of the directive was to protect the consumer (tourist), who was having a long vacation in a comfortable environment, during which he was paying the appropriate amount and he wasn't responsible for any other extra charges. The first regulations for tourists using this period of time were implemented by the directive 94/47/EC, its purpose was to develop minimum legal standards, so any tourist buying this package would be protected within its frames. The minimum harmonization plan of 94/47/EC directive was unsuccessfully shared by the member countries, this caused the European Parliament to create a new modernized document.

In 2009, a new, completely modern Directive 2008/122/EC was adopted. At present, its maximum harmonization is mandatory for member states, which guarantees high standards of consumer protection, as they often face unfair business practices and an information vacuum in legal aspects.[20]

4.5. The Consumer Rights Directive (2011/83 / EU)

The Consumer Rights Directive (2011/83 / EU), the so-called CRD, is a new legal framework that protects the rights of consumers during distance selling. This Directive repeals and replaces the Distance Selling

Directive[21] as well as the Doorstop Selling Directive[22]; it also made minor additions to the Agreement (Contract) Directive[23] as well as the Sale of Consumer Goods and Associated Guarantees Directive[24].

The CRD was adopted in Ireland in 2013 as the Eurobarometer report for the same year reflected a significant increase in the number of customers benefiting from an online purchase agreement. Statistics have increased by 44% since 2006[25].

This Directive is a horizontal legislation that regulates certain aspects of the risks of contracts between consumers and businesses. It includes contracts for the purchase of goods, services, digital content that is not available through material means and also public consumptions. Nevertheless, validity of some contracts are

[19] See - DIRECTIVE 2008/48/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC.
[20] A. Petrovic "The legal Pozition of the counsumer in timeshare contracts-Analizes of Directive 2008/122/EC, 273.
[21] Parliament and Council Directive 97/7/EC of 20 May 1997 on the protection of consumers in respect of distance contracts [1997] OJ L144/19 (Distance Selling Directive).
[22] Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises [1985] OJ L372/31 (Doorstop Selling Directive).
[23] Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts [1993] OJ L95/29 (the Unfair Terms in Consumer Contracts Directive).
[24] Parliament and Council Directive 1999/44/EC of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees [1999] OJ L171/12 (Consumer Sales Directive).
[25] Peter O'Sullivan, Does the New Consumer Rights Directive Enhance Consumer Confidence in the Online Market, 6 King's Inns Student L. Rev. 64 (2016) , Page 65.

excluded from the scope of the Directive (eg contracts for social services, healthcare, toys, real estate, financial services, travel package, time, food delivery or - except for certain provisions - passenger transport).

The directive stipulates that the consumer must receive complete and transparent information on the elements of the contract, formal requirements for distance and offshore contracts, clear rules for the delivery of goods and payment of risk and certain specific provisions on the use of fee of payment fees, telephone communication between customers and traders, and rules on surcharges. In general, the directive has the character of full harmonization, which means that it is directly transposed by the Member States. However, the Directive specifically allows Member States to waive additional pre-contractual information requirements for contracts. In addition, it allows Member States to apply certain regulatory norms of their own national legislation[26].

It will be interesting to consider the critique of this Directive that has been published in relation to it. Criticism is proposed in terms of the effectiveness of information in distance contracting and online agreements, it also provides for the consumer confidence issue. This criticism has arisen from the existence of its predecessor Directive 97/7/EC and, as we can see, remained firm even after the publication of the current CRD and Regulation 2013... In his article, Geraint Howells explicitly stated: "simply providing information to consumers is not enough to protect them legally, as people cannot receive information properly in order to be empowered appropriately".[27] There are many reasons for this, such as the time factor that customers do not devote to reading the contract, as well as vague terms/clauses, etc. Users also look at issues with excessive optimism and fail to calculate potential risks from the beginning, which ultimately hurts them. According to Howells, leaving the customer alone in this difficult process is ineffective. The article is mainly aimed at developing a behavioral economics model. In his view, gathering information in a contract alone is not enough to protect the rights of the consumer.

5. Judicial practice in Georgia

A study of the judicial practice has shown that consumer protection directives are applied in court decisions, moreover, judges indicate the obligations under the Association Agreement, after which they try to reinforce the arguments with the precedents of the European Court of Justice. Judges certainly talk about the non-binding nature of their use, but they well substantiate why they should protect consumer rights and what is the main goal in the development of this institution.

On the case #AS-237-2019 of the Supreme Court of 17/05/2019, by which the cassation appeal was declared inadmissible, the decision of the Chamber of Civil Cases of the Tbilisi Court of Appeals of November 22, 2018 is well considered, the analysis of which I will provide. [28]

Claim: Fulfillment of a monetary obligation, sale of the subject of the mortgage.

Facts:

1. In 2007, a loan agreement was signed between JSC Bank and an individual and to secure this, the real estate of another owner, which is currently owned by the defendant (natural person), was mortgaged. Numerous changes and additions were signed between the parties. The natural person in good faith, duly fulfills the obligations imposed on him.

[26] DG JUST, UNIT E2 Report "Evaluation of the Consumer Rights Directive 2011/83/EU".
[27] G. Howells, "The Potential and Limits of Consumer Empowerment" (2005) 32 Journal of Law and Society 349.
[28] See on the website of the Supreme Court<<http://prg.supremecourt.ge/DetailViewCivil.aspx>> [L. s. 04.01.2021].

2. During the period of validity of the contract dated August 27, 2007, the Bank provides insurance for the loss of income caused by the client's unemployment at its own expense. In case of unemployment for a reason independent of the client, the client is obliged to notify the bank in writing, no later than 3 calendar days after the onset of unemployment and submit the documents requested by the bank. However, the client will be released from the obligations under this agreement only to the extent that the bank will be reimbursed by the insurance company for the damage caused by such an insurance event. Only the bank will be the user (beneficiary) of such insurance policy, however, the client has the right to refuse such insurance. In accordance with the reservation in the agreement, the client will benefit from unemployment loss insurance in case of filling in the application form (Annex № 9) attached to this agreement. The terms of the insurance implementation are set out in Annex 10 to this agreement.
3. The loan agreement of 27 August 2007 contains № Annex 10, which deals with the terms of unemployment insurance for mortgage borrowers. It is concluded between a particular insurance company and the plaintiff. However, Annex 9 is not drawn up.
4. The first instance interviewed a witness - a credit expert, who said that clients were given unemployment insurance as a gift, which included the period of the loan agreement. In case of job loss, the bank would be compensated for lost income by the insurance company.
5. The natural person has lost his job, procedurally fulfilled the obligation within 3 days.
6. The Bank disputes the existence of the agreement as Annex 9 has not been signed and demands a full refund.

Result: The first instance did not comply with the bank's request, and the Court of Appeals upheld the decision.

Important definition:

The Chamber of Appeals paid attention to Article 342 of the Civil Code of Georgia (hereinafter - the Criminal Code), which strengthens the definition of standard terms of the contract. The Court considered that the impugned reservation of the contract was a pre-established condition of multiple-use, which is imposed by one party (in this case the bank) on the other party (in this case the debtor). This is confirmed by the testimony of a credit expert questioned as a witness in a court of first instance, according to which clients were given unemployment insurance as a gift, which covered the period of the loan agreement. Taking into account the testimony of the witness, the Chamber of Appeals considered that at the time of the conclusion of the agreement, the said condition existed globally in the loan agreements and it was not the subject of individual negotiations between the parties. The impugned reservation, as already noted by the court, allows for its various interpretations that indicate to its ambiguity, whereas under Article 345 of the same Code, the ambiguity of standard terms must always be resolved in favor of the other party. It is noteworthy that the object of compulsory unemployment insurance protection is the consumer. Accordingly, resulting from the purpose of the object of protection, using both logical and literal methods, the Court of Appeals held that the impugned condition of the agreement between the parties did not include the performance of an action subject to the client's will. This means that if a bank representative had not submitted №9 to him for signature, he could have assumed that signing the main contract would automatically mean the introduction of compulsory unemployment insurance, especially if, according to a credit expert interviewed as a witness, it was established that Clients were given an explanation of the insurance orally and no other documents were signed.

A different interpretation of this norm would have an anti-consumer result, which would be contrary to the principles of consumer protection strengthened by the acts of both national and international law. Although the Chamber of Appeals has taken into account the non-binding/recommendatory nature of EU legal instruments (directives, regulations) for Georgia, due to the importance of the Association Agreement and the importance of commitment of Georgia to implement the good standard established by the European Union, for the purposes of the dispute under consideration, the Chamber of Appeals considered it important to review the existing directives in the field of consumer protection in the European Union and the practice established by the European Court of Justice.

EU Directive 93/13/EEC on unfair contract terms is directly related to the dispute under consideration[29]

The directive provides for three main mechanisms for the protection of consumers: 1) when the condition is not unequivocally unjust, but is ambiguous/vague and/or its content is doubtful, such a condition must always be interpreted in favor of consumers (Ar.5.1), 2) An unfair standard condition is unconditionally void, it is not considered obligatory for the consumer from the moment of conclusion, it does not apply in cases when the consumer does not request the invalidity of the condition (Ar.6) C-137-08 (par.49), and 3) Consumers who consider themselves victims of unfair terms have the right to use an effective legal mechanism to protect themselves from unfair terms.

In addition, in its judgments at different times, C-137-08 (par.46), C-40/08, C-240/98, the European Court of Justice has indicated that the consumer protection system governed by this Directive is based on the idea that that the consumer is a "weak side" compared to the supplier, not only because of the lack of ability to negotiate, but also because of its low level of awareness of the standard.[30]

6. Court practice in the European Union (ECJ – Europian court of justice)

The ECJ is a court applied by local courts of EU member states for a fair interpretation of EU law. Entrepreneurial entities also apply in exceptional cases if they realize that their rights set out in directives are being violated.[31] The ECJ provides the clarification of the norms, uses security measures, annuls EU legal acts, ensures the work of the relevant structures of the EU (Parliament, Commission), reviews complaints in this regard and, at last, imposes sanctions on EU institutions.

As mentioned above, local courts apply to the ECJ for non-compliance of the national law of the Member State with the directives and/or for elimination of ambiguity in the norm of the Directive. There is no perfect act on earth, all of them needs refinement and explanation of norms, therefore neither directives have become an exception and too many times their norms has caused confusion for the parties. Below I will discuss an important decision in terms of consumer protection.

6.1 Case C-240/98 - Contract with the customer and unfair terms

Facts:

[29] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31993L0013 [L.s.07.01.2021].
[30] See Judgment of the Supreme Court, Case No. 237-2019, May 17, 2019.
[31] <<https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_en>>[L.s.07.01.2021].

1. On May 24, 2004, the company Asturcom and Mrs Rodríguez Nogueira signed a telephone installment agreement containing an arbitration clause, which contained an arbitration provision according to which any dispute under the agreement had to be settled by an arbitration, known as de Areschie e Eididasad ((European Union Arbitration in Law and Capital) (AEADE). The place of this arbitral tribunal, which is not indicated in the agreement, is located in Bilbao.

2. After Mrs Rodríguez Nogueira failed to pay the full amount and terminated the agreement before the agreed minimum subscription period expired, Asturcom began an arbitration hearing against her before AEADE.

3. On 14 April 2005, Ms Rodríguez Nogueira was charged in the amount of EUR 669.60 by decision of the arbitration.

4. Ms Rodríguez did not take part in the arbitration, she was not given the opportunity to express her opinion because in fact, appearing before the tribunal was associated with great expenses for her.

5. On October 29, 2007, for the purpose of enforcing the arbitral award, Asturcom filed A decision of the tribunal to the Juzgado de Primera Instancia (Court of First Instance) No de Bilbao (Spain) that has entered into force, the term of which has already been missed by the consumer.

Several issues arose in court. The fairness of this rule in relation to the consumer's right was unequivocally questioned, in addition, the court and arbitration are deprived of the opportunity to check the fairness of the case in accordance with national law if the case concerns a decision that has already entered into legal force. However, for Ms. Rodríguez, the present arbitration reservation, which did not even indicate the location of the tribunal, and where the arrival of the customer is more expensive than the contract itself - is clearly an unfair record.

The Court therefore referred to the ECJ with following issues: According to [Directive 93/13], does the court have the right to nullify an unfair provision at the stage of enforcement of an arbitral award when a decision has already entered into force?

Legal assessment and conclusion:

First of all, the court made an explanation of what the Directive 93/13 serves and what legal consequences might result from its implementation. Since the consumer is a weak side who does not have the power to negotiate and trade, even his/her acquaintance with an unjust norm cannot cause the enterprise to change the standard condition,[32] therefore, the directive is very strict and directly emphasizes the right of the consumer not to be bound by an unfair condition since such a norm is not binding in nature. Accordingly, the national court must have the inquisitorial power to investigate itself and, if any, to annul an unjust norm against the consumer. The Court clarifies that the above provision is a fundamental and starting point in the field of consumer protection. However, the present case is absolutely different from all existing cases, given the fact that Mrs Rodríguez did not use the time limit for appeal and waited for the decision to enter into force. Under Spanish civil law, there is a 2 (two) month appeal period after which the decision enters into force. The course of calculating the deadline for filing an appeal starts from the day of its delivery to the party. Sometimes the Court of Justice has dealt with questions as to whether this time limit for appeal was reasonable. In this case, however, neither side has questioned the issue and has not appealed the timeliness. Therefore, we consider that the 2-month appeal period is absolutely fair and expedient.

[32] See similar ECJ JUDGMENT C-240/98 to C-244/98 Océano Grupo Editorial and Salvat Editores [2000] ECR I-4941, paragraph 25, and Case C-168/05 Mostaza Claro [2006] ECR I-10421, paragraph 25.

Therefore, using the principle of proportionality, it should be determined if there is an effective balance between contractual freedom/legislation on the one hand, which gave the parties the right of drawing up points as well as appealig, and on the other hand, on the obligation of the court, whether it should fully protect the right of the consumer in the part of enforcement!!

The Court of Justice has strictly clarified, whether it is contrary to the public order and imperative law of the country to enter into the content of a decision that has entered into force, even to protect the rights of the consumer, it is part of national law. The ECJ certainly cannot interfere in the domestic politics of the Member States, nor does it have the competence to do so. It is simply up to the national court to examine whether it or the tribunal has the right to nullify a norm the appealing deadline of which has expired. Whether this provision is contrary to public policy is a matter for the national court. As for the circumstances of the case, it is really clear that the place of arbitration was not clear to the consumer even from the contract itself, even if this issue was clear, the consumer would not have the power to change it. This provision substantially violates the right of the consumer and is unconditionally void if the consumer uses the right of appeal. However, in terms of enforcement, how the National Court defines the invalidity is its domestic policy. In some countries, the rights of the consumer are protected at such a high level that even during enforcement the judge may not enforce this part of the norm. It is also interesting to know whether the arbitral tribunal had the power to consider whether the right of the consumer in the given contract was contrary to public order and the policy of the country. With this provision, it will be even more possible to invalidate the arbitral award and refuse its enforcement. Accordingly, it is the policy of the Spanish Government to what extent and how it protects the rights of its own consumers and whether the enforcement of this case is inconsistent with public order.[33]

Conclusion

The present article demonstrates the very important role of consumer's rights in contract law. Obligation to protect "the weak party" is the fundamental principle of a democratic country.

The EU law managed to delineate consumer rights. In this article we review only contractual protection guarantees, nevertheless, in the present reality, their rights are guaranteed almost in every aspect.

The Association Agreement also obliges us to work in this direction and to adopt solid legislative acts.

The article demonstrates the role of the Georgian court, also how important is the analysis of international law and practice.

I truly wish for every judge to have an opportunity to get acquainted with the practice of the Court of Justice and to share their useful advice/recommendations. This is the exact purpose of this scientific article, to help Georgian consumers get acquainted with their rights and to put them into realization, and for practicing lawyers to develop a defensive strategy.

[33] ECJ Judgment Case C-40/08, 6 October 2009.

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18. Giovanna Capilli, Quelle Case: The Directive on the Sale of Consumer Goods at the European Court of Justice, 2010;
19. Ewoud Hondius; Christoph Jeloschek, Towards a European Sales Law - Legal Challenges Posed by the Directive on the Sale of Consumer Goods and Associated Guarantees, 2001;
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28. Web address : <http://europa.eu/legislation_summ aries/consumers/protection_of_co nsumers/l32021_en.htm> [Last seen 02.01.2021];
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30. Anita Petrovic "The legal Pozition of the counsumer in timeshare contracts-Analizes of Directive 2008/122/EC;
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PROBLEMS ARISING DURING THE IMPLEMENTATION OF N2008 / 48 / EC EUROPEAN DIRECTIVE

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Abstract

Since the Association Agreement, the countries have been obliged to implement a number of laws, and the implementation of the implementation in different ways has caused many problems and legislative differences. This paper discusses the problems arising during the implementation of the Directive of the European Parliament and Council N2008 / 48 / EC "On consumer credit agreements", both in Georgian and in other countries and in international law. The article presents the problems that have arisen during the development of the Directive and the international strategies that annually announce certain shortcomings and issue recommendations for solutions. In addition to international strategies, the Action Plan for European Integration of the Parliament of Georgia for 2018-2020[1] is discussed, according to which the problems are not only evident at the implementation stage, but also indicate a general malfunction of the executive structure and imperfect staff. The plan shows the low quality of compliance with international standards, and as for the directives, their novelty is clearly felt in the Georgian legislation and, therefore, it needs to amend a number of norms. It is noteworthy that legislative novelty is also problematic in practice, and we still find scarcely solutions where the dispute is resolved by consumer law. In addition to Georgian law, this problem is also mentioned in international practice, for example in relation to certain terms, which are given in a very broad definition in the Directive. In particular, their uncertainty leads to their own interpretation by states and judges, which ultimately leads to different practices. Such a difference is detrimental not only to the customer, who is not required to be aware of the essence of the norms, but also he can not understand how the dispute can be resolved and can not even understand what words can be used by the parties to the contract, obligations.

KEY WORDS: Implementation, User, Legislative distance, Consumer protection.

Introduction

When civil legal relations arise, it is important for a party to be able to fully understand the law in order to effectively protect its own interests when necessary. The development of modern technology has given rise to many new areas of legal regulation including consumer law. States must had to ratify EU consumer protection directives. The government had an obligation to protect the weak side.

After Georgia gained independence in 1991, the second part of Article 10 of the Criminal Code gave the parties the right to conclude a contract and to freely determine the content, but as a result of the amendments, not only the implementation of the European directive became necessary, but also the creation of a separate law. Despite the uniformity of the European directive and European practice, the novelty of this institution is still strongly felt in Georgia. The paper presents an analysis of consumer protection regulations, a brief historical perspective, the issue of implementation of international regulations and directives in Georgia, and

[1] http://www.parliament.ge/uploads/other/85/85952.pdf [L.s.28.04.2021].

international problems. The main purpose of this paper is to study the consumer credit norms of Georgia and other countries, to identify the problems related to the realization of consumer rights that arise during ratification and in other areas. The article reviews the European and Georgian legal frameworks and discusses case law, in connection with which some recommendations have been made.

1. Consumer rights, protection strategy in European directives and green papers

Expansion and development of the trade sphere in modern life, The emergence of rapid changes in technology and international scale have necessitated the adjustment of legislation to regulate relations. It became necessary to carefully regulate the rights of the customer as a weak side of contract.

The evolution of consumer law is still linked to Rome. In 1957, the European Economic Community was established in accordance with the Treaty of Rome. The agreement removed barriers to foreign trade in goods (which meant the creation of a customs union), persons, as well as services and the free movement of capital between member states of the economic union. The purpose of the agreement was to establish a common market. "The reason for the establishment of this institution was the economic unification of the countries and the establishment of a common standard for the protection of human rights."[2] This is where the first idea of the need to protect the rights of consumers was introduced. Despite the early introduction of such an idea, the Treaty establishing the European Economic Community of 25 March 1957 mentions users with only five random references (Articles 39, 40, 85 (3), 86, 92 (2) that comply with the Treaty of Nice[3] 33 (3), 3481, 82, 87) .There was a general assumption that the consumer would benefit from an integrated and more efficient common market. [4]

In the 1970s and 1980s, the political atmosphere gradually became more favorable for consumers. In 1973, the European Union ratified the Charter of Consumer Rights, and the Preliminary Program of the Council Resolution of 14 April 1975 on the Consumer Rights and Information Policy of the European Economic Community endorsed five key rights: 1) the right to health and safety, 2)the right to the protection of economic interests, 3)the right to compensation, 4)the right to information and education, 5)the right to representation.[5]

"The aim of the new strategy was to strengthen consumer awareness and competence, to ensure their safe and active participation in the European market." [6] In 2001, the Commission published the Green Papers [7] on the Protection of Consumer Rights in the European Union, through which it was planned to implement and coordinate consumer rights in the European Union. [8] A new reform in 2002-2006 revised the standard of

[2] T. Lakerbaia, V. Zaalishvili, T. Zoidze "Consumer Protection Law" Publishing House "IBSU" 2018 p. 62.

[3]The Treaty of Nice was an amendment to the Maastricht Treaty (or the Treaty on European Union) and the Treaty of Rome (or the Treaty establishing the European Community, which was the founding treaty of the European Economic Community before the Maastricht Treaty). The Treaty of Nice reformed the institutional structure of the European Union against the enlargement to the east, which was supposed to be fulfilled by the Treaty of Amsterdam, but could not be resolved in time. The entry into force of the treaty was questionable for some time, after Irish voters rejected the referendum in June 2001, although the previous results were annulled a year later due to the results of the last referendum. Signed by European leaders on 26 February 2001 and entered into force on 1 February 2003.

[4] http://userpage.fu-berlin.de/~rjanal/lehre/consumer/2_history.html [L.s.28.04.2021].

[5] A. Łuczak „Evolution of consumer protection law in the light of the proposal for a horizontal directive on consumer rights and Rome I regulation" edition "LLM" 2011 pg. 125.

[6] Lakerbaia, Zaalishvili, Zoidze See: footnote 2 pg. 63.

[7] https://eur-lex.europa.eu/summary/glossary/green_paper.html [L. s.28.04.2021].

[8] Lakerbaia, Zaalishvili, Zoidze See: footnote 2 pg. 65.

minimum protection approach previously held by consumers, and on March 13, 2007, the Commission introduced a new consumer policy strategy aimed at enhancing consumer health and self-confidence.

2. Consumer Law Strategies and Harmonization

Strategies are written annually for the purpose of control, the main goal of which is to perfect the legislation. For example, the main goal of the 2007-2013 strategy was to strengthen consumer awareness and competence, to ensure their safe and active involvement in the European market.[9] It was also planned to create an opportunity for consumers to enjoy the same protection guarantees in accordance with the general rules. During the 2007-2012 Strategy Announcement, academic research was conducted, known as The Draft Common Frame of Reference (DCFR).[10] The document also focused on the need to reform consumer law issues. The main issues were pre-contractual obligations and the right to reject the contract.

It is important to note the 2019 strategy "Consolidated and Improved Consumer Rights in the Internal Market".[11] Under which (DG JUST General Directorate of Justice and Consumers) defined obligations to protect the collective interests of consumers and the need to apply the Directive on unfair terms in consumer contracts. This is the assessment of Directive 2008/48 / EC on consumer credit agreements, which started in mid-2018 and ended at the end of 2019,[12] while, the powers of DG JUST were described in detail in a separate strategy for 2016-2020,[13] it can therefore be said that these two documents are complementary acts. The main reason for the legislative distance between the countries is also noteworthy, which is no less problematic.

As it is known, the process of legislative harmonization can be carried out in different ways and can be based on the following methods:

1. Uniformity, which means changing the domestic law in a completely unified system and transposing the directives into national law; For example, the 1980 Rome Convention under the Treaty;
2. An approach that involves the implementation of a directive based on its goals;
3. Complex (filler) which is not intended to change the domestic law of a Member State but adds common provisions to existing national legislation, becomes a legislative merger;
4. Convince as a way of harmonization achieved through non-binding means soft law instruments such as recommendations and opinions.

Exactly the abundance of implementation causes similar shortcomings, The main problem is found in the second article, in particular, the definition of "user", the non-specification of which raises many questions.

[9] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:279E:0017:0023:EN:PDF [L. s.28.04.2021].

[10] C. von Bar, E. Clive and H. Schulte-Nölke and other „Principles, Definitions and Model Rules of European Private Law“ 2009 pg. 3. https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/EUROPEAN_PRIVATE_LAW/EN_EPL_20100107_Principles__definitions_and_model_rules_of_European_private_law_-_Draft_Common_Frame_of_Reference__DCFR_.pdf [L.s.28.04.2021].

[11] https://ec.europa.eu/info/publications/management-plan-2019-justice-and-consumers_cs 13ȣ3 [L.s.28.04.2021].

[12] See: Footnote 11 12 pg. [L.s.28.04.2021].

[13] https://ec.europa.eu/info/sites/info/files/strategic-plan-2016-2020-dg-just_march2016_en.pdf 14 pg. [L.s.28.04.2021].

3. Association Agreement between Georgia, on the one hand, and the European Union and the European Atomic Energy Union, on the other, and their Member States, and the commitments made

Following the adoption of the Association Agreement,[14] which sets out a separate chapter on consumer policy, imposes the obligation to set a high standard of consumer protection. In this regard, Georgia has also committed itself to legislative approximation, to facilitate the exchange of information, consumer product safety, information exchange systems, consumer education / awareness And to strengthen their capacity, as well as to provide compensation to consumers, and as an annex to the Association Agreement was added the legislative list with which to comply with national legislation, including an important place in the field of consumer protection. "By the joint decision of the State Commissions of NATO and EU Integration of Georgia, a 3-year plan for the implementation of the Association Agreement and the Association Agenda was developed in coordination with the Office of the State Minister for European and Euro-Atlantic Integration, which reflected legal approximation issues."[15]

A strategic goal was defined to establish a legal framework in line with the Association Agreement. The plan for 2018-2020 reflects the specific measures to be taken by the competent body - the Committee, "deadlines and indicators for their implementation, the parties responsible for the event and other parties involved in it, as well as compliance with the Association Agreement"[16]. Based on the basic research (2017) conducted within the framework of the Action Plan of the Parliament of Georgia for 2019-2020 (2017), it was revealed that the staff of the committee mainly employed lawyers, economists and specialists in international relations. However, none of the employees were specialists in EU law, including in the Legal Committee. There was also a problem with the English language skills of the staff. The normative acts written by the Association Agreement have not been fully translated into Georgian by the Legislative Herald. Not knowing the proper level of English may hinder the process of information retrieval, research and lawmaking. In addition, the staff of the committees are not directly responsible for the implementation of the Association Agreement.

As it turns out, due to these plans, a lot of problems were identified during the implementation of the directives. One of the most important is the lack of information of the user, which is confirmed by the 2019 report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia.[17] Although both plans envisaged the implementation of the plan by 2020, including the following recommendations: - Public awareness, translation of directives from English into Georgian, and the addition of an EU Legal Officer to the service staff, none of the above recommendations were properly implemented. The launched portal - www.aa.ge, although it has a convenient search engine and the site is easy to understand, most of the instructions are given only in the description, and when switching to the directive, the directive opens in English, which is inconvenient and inconvenient for a large part of society. A person fluent in English is very difficult to analyze and read this documentation because it contains a number of legal terminology which can be difficult, time consuming and very time consuming for a non-lawyer to understand and because the directive only provides a regulatory framework and gives freedom to the state itself. To regulate the relationship, the user must also seek it in national law, of course, if he is to be able to clarify the settlement of the law and comply with all regulations. The difficulty is that, for example, the credit legal relationship is regulated not

[14] https://matsne.gov.ge/ka/document/view/2496959 > [L.s.28.04.2021].
[15] http://www.parliament.ge/uploads/other/85/85952.pdf [L.s.28.04.2021].
[16] See footnote 15.
[17] https://www.ombudsman.ge/res/docs/2020040215365449134.pdf 318 pages 2019 [L.s.28.04.2021].

only by a separate directive, but also by the Civil Code and many other normative acts, which directly relate to the specificity of the loan, the type, the nature of the relationship.

4. Problems with the definition of "costumer"

According to the European approach, in order to be considered a consumer, it is necessary to: „1Status of a natural person; 2. Operation beyond trade, business, craft or professional scope.“ It should be noted that the definition of consumer in Georgian banking law differs from the above definitions. Pursuant to Article 2 (e) of Order N151 / 04, the consumer is a "natural or legal person receiving a financial product or with such intent, except for a financial organization".[18] Based on the above, in the Georgian reality, any individual and legal entity that wants to receive a financial product is considered a consumer, regardless of whether it will actually enter into a contractual relationship with a financial organization. The norm excludes being considered a consumer of a financial organization. [19]

In Georgian legislation, the concept of consumers is also found in the Law on Protection of Consumers' Rights, according to which the consumer is a citizen who uses goods (work, services) for personal use, buyer, customer or with such intention. In this regard, we find the opinion on the refinement of this norm, which I partially agree with the inconsistency of the use of the term, in particular, the reference to "user" as a "citizen"[20] is confusing, so it is better to use a natural person, because according to international practice According to another view, the definition of the word "user", "purchaser", "customer or with such intent", the need to remove the words is mentioned, because it reflects the action of the user and is insignificant in defining the concept.[21] Here, too, I agree with the view, however, not in the sense that these actions are insignificant, but in the part that the legislation should make it easy for the reader to read. It is non-specific, and some of the above are not at all consistent with the international definition.

The directive defines the consumer as an "average" consumer, although it should be noted that in many cases not only individuals but also companies should be protected. For example, when credit operations are carried out by a small business for acquisition or other activity that is for their commercial activities but does not directly relate to their activities. For example different types of purchases. Consequently, the role of consumers may not be limited to personal activities and may also serve the interests of others.

In this case, too, the action falls outside the scope of the consumer's trade, profession or business, therefore, the term "consumer" can be said to be not only dependent on activity, But also for other actions and according to this example, can be given to any person so that this or that action does not remain outside the scope of protection. This approach has been confirmed in many decisions, so this approach was approved in the final draft submitted by the Council of the European Union and adopted in October 2011.[22]

[18] https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008L0048 [L.s.28.04.2021].
[19] N. Kashibadze Master Thesis on "Consumer Protection Standards in Credit Agreement" Publishing House "Iv. Javakhishvili Tbilisi State University “2021 p. 30.
[20] https://matsne.gov.ge/ka/document/view/32974 [L.s.28.04.2021].
[21] A. Ramishvili "Private Legal Mechanisms for Consumer Protection in Consumer Credit Agreements", Law Magazine N2, Iv. Javakhishvili Tbilisi State University “2012 pg. 178.
[22] M. Fayyad, “Sharjah University journal of Law Science” s „The Consumer Right of Information and Advice in Credit Agreements in the European Union Law: an Analytical Legal Study“ 2020 pg. 34.

A similarly strict interpretation was made (CJEU) in the Republic of Pinto, [23] where the court was asked whether a directive could be applied to a trader who was trying to sell a business by advertising his business. The answer was that the trader entered into a separate contract for advertising, there was reason to believe that the trader was well aware of the value of his business and each event and was informed. Consequently, he could not enjoy the right of any additional protection for the customers, because he could not experience the consequences of the unexpected and this would be regulated by the purchase.

A similar result followed (CJEU) in the case of Francesco Benincasa v Dentalkit Srl.[24] Which raised the question of whether the plaintiff, who had to enter into a contract for the purpose of trade or profession, should be considered a consumer not in the present but in the future in order to regulate Article 13 and Article 14 of the Convention. The answer to this question was that the concept of the customer should have been strictly defined and should not have taken into account the subjective attitude of the person towards the contract.

An analogy is found in the interpretation of the article of the directive in the field of identical regulation in the case of Bayerische Hypotheken- und Wechselbank AG v. Dietzinger,[25] where the court emphasized the objective element of the contract itself. A guarantee contract entered into by a natural person outside the scope of its activities did not fall within the scope of the Directive, even if the repayment of the loan under the contract fell within another trade or profession and affected only indirectly. [26]

Notwithstanding established practice, it should be noted that the definition only partially includes the term "user". In the current EU consumer legislation, each EU country defines the concept of consumer separately for its own purposes. These definitions are substantially consistent, but there are some differences. The concept of consumer is defined in several directives in the field of contract law, as well as in the Brussels[27] and Rome[28] Regulations (in the field of procedural law), which include specific rules of consumer protection. For the most part on consumer rights, many Member States have extended the scope of the Consumer Rights Act to that provided for in EU directives.[29]

We face this problem both in Georgia and in other countries. For example in China, where this norm is very interestingly implemented. In particular, China Consumer Protection Act 1993 does not provide for the definition or interpretation of "consumer". According to Part 2: The consumer buys or uses goods or services for the purpose of residential consumption.[30] If in Georgian law a consumer is called a citizen, based on this definition in China the definition of consumer begins with the consumer and it is generally unclear whether he can be a natural person or a legal entity. The meaning of "need to consume life" is also obscured. The lack of a clear legal definition of "consumer" leads to ambiguity in the enforcement of consumer law. The situation is

[23] The Judgment of the Court (First Chamber) of 14 March 2017. Criminal proceedings against Patrice Di Pinto. Reference for a preliminary ruling: Cour d ›appel de Paris - France. Case C-361/17.
[24] Judgment of the Court (Sixth Chamber) of 3 July 2017. Francesco Benincasa v Dentalkit Srl. Case C-269/15.
[25] CJEU 45/96 (1998) E.C.R. I-1199.
[26] M. Fayyad, "University of Sharjah journal of Law Science" s „The Consumer Right of Information and Advice in Credit Agreements in the European Union Law: an Analytical Legal Study" 2020 pg. 35.
[27] Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, laying down rules governing the jurisdiction of courts and the recognition and enforcement of judgments in civil and commercial matters in EU countries.
[28] Regulation (EC) No 593/2008 on the law applicable to contractual obligations, applying to contractual obligations in civil and commercial matters in the event of a conflict of laws.
[29] J.Valant, Consumer Protection in the EU, Policy overview, European Parliamentary Research Service, 1, EU Parliament, 2015 pg. 4.
[30]Z. Liao, "The Recent Amendment to China's Consumer Law: An Imperfect Improvement and Proposal for Future Changes". Beijing Law Review, 5, 2014 pg. 167.

worse due to the lack of a tough decision in the Chinese civil law system. Without any obligation, judges and administrative officials can only rely on their personal views and thus define similar cases differently.[31] As mentioned, the user cannot be a legal entity, but if he receives services that are not related to his activities, in this case, does the norm refuse to protect such a user? A similar question was asked in China and Slovakia.[32]

Conclusion

The institute of consumer law is still new for us and for many other post-Soviet countries, which can be seen both in the legislative gaps and in the case law. Despite the annual international strategies, the directive is not detailed and problems in practice are not analyzed. National legislation should at least ensure the implementation of annual strategies. It is necessary to translate the directive into the national language, to add specialists in the mentioned field to the structures and to improve the quality of providing information to the public. It is necessary to specify the degree of harmonization of the implementation of the norms in the national legislation and at the same time to clarify the terms that are indefinite and cause questions. International practice should be established and thus facilitate national courts to exercise jurisdiction in the context of established practice, so as not to lead to different sorts of cases and create injustice and mistrust among consumers.

[31] Z. Liao, Zheng, consumer law and practice in China: „A critique on the 20-year experience and the recent amendment bill"; research supported by Fundamental Research Funds for the Central Universities 2012 pg. 6.
[32] M.Patakyová Application and Implementation of Directive 2008/48 / EC in the Slovak Legal Order IN: GLAVANITS, J., HORVÁTHY, B., KNAPP, L. (eds.): The Influence and Effects of EU Business Law in the Western Balkans. Conference proceedings of the 1st EU Business Law Forum.

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21. Judgment of the Court (Sixth Chamber) of 3 July 2017. Francesco Benincasa v Dentalkit Srl. Case C-269/15;
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27. Zhixiong Liao, Ms Xiong Zheng, consumer law and practice in China: „A critique on the 20-year experience and the recent amendment bill"; research supported by Fundamental Research Funds for the Central Universities;
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29. DIRECTIVE 2014/17/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010;
30. Elke ter Beek "The slow implementation of EC Directives" 2005;
31. Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit;
32. Sebastian Nessel „consumer policy in 28 Eu Member States: An Empirical Assessment in Four Simensions" 2019;
33. Edited by Christian von Bar, Eric Clive and other „Principles, Definitions and Model Rules of European Private Law "2009;
34. Reinhard Steennot " Consumer protection with regard to distance contracts after the transposition of the Consumer Rights Directive in Belgium and France" 2012;
35. Council Directive 85/577/EEC "to protect the consumer in respect of contracts negotiated away from business premises ".

IMPACT OF CERTAIN CIVIL LITIGATION ON THE STATUTE OF LIMITATIONS FOR CONTRACTUAL CLAIMS

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Abstract

The concept of statute of limitations in the material sense is closely related to procedural law. Restoration of a violated right of a person is carried out by filing a lawsuit in court. That is why it is crucial to analyze the issue of the impact of the statute of limitations on individual civil litigation.

The article is devoted to the study of the issue of the impact of certain procedural actions, including the suitability of the party, the rejection of the claim, investigating the issues related to the impact of filing a claim on the statute of limitations. In general, it should be taken into account that the given procedural actions have important legal consequences for the party, although it is essential to consider these procedural actions in terms of statute of limitations, in particular, to assess whether the plaintiff or defendant's involvement in legal action leads to the termination of statute of limitations. In general, it should be noted that the filing of a claim by a proper plaintiff constitutes a means of terminating the statute of limitations on the claim, although the party's inadequate consideration substantially alters the legal status. In addition, the legal consequences of a denial of a claim are not unequivocally identified by law, in particular, it is unclear whether a waiver of a claim is a valid remedy for termination of the statute of limitations. Based on the principle of definiteness, a clear regulation should be established regarding the given issue. However, in the current legislative regulation, no obvious impact of filing a claim is identified before initiating the lawsuit on the statute of limitations.

The article also devotes to the analysis of the peculiarities of making a judgment in absentia in the statute of limitations and the application of the statute of limitations in the court of higher instance.

It should be noted that there is a heterogeneous approach to the named issues, which, given the essence of the statute of limitations, may lead to a violation of the legitimate interest of the person. An in-depth study of the mentioned issues is presented and recommendations are proposed to ensure the identification and uniform explanation of the issues.

Keywords: statute of limitations, case proceedings, provision, judgment in absentia, impact, termination, counterclaim.

Introduction

The concept of statute of limitations was not known in ancient Roman law. Its onset is associated with Praetor's Edicts. The praetors initiated a number of new types of lawsuits.[66] Statute of limitations involves the term established by law, during which the person whose right has been violated can protect the right in

[66] J. Hasler, „Die Wirkung der Verjährung bei der Schuldklage", Kessinger Publishing, 1872, 3.

court.[67] In addition, the Civil Code of Georgia (hereinafter referred to as the CCG) provides for the possibility of protection of rights in a non-judicial manner. However, the most common way to protect a right is to go to court.

There is a significant connection between substantive and procedural law, since violation of substantive law results in the enforcement of a right. "Limitation in the material sense is closely related to the procedural understanding of the right to sue."[68] That is why it is of practical importance to analyze the impact on the statute of limitations of a separate procedural action, which determines the urgency of the presented issue.

The research presented in the paper is divided into three chapters:

The first chapter is devoted to the analysis of the impact of certain issues related to the proceedings (suitability of the party, refusal to accept the claim, application for securing the claim) on the statute of limitations.

The second chapter discusses the peculiarities of making a decision in absentia in the statute of limitations, on the examples of non-filing of a counterclaim, non-appearance of the defendant.

The third chapter deals with the issue of the application of the statute of limitations in the court of higher instance.

1. Impact of Certain Issues Related to Legal Proceedings on the Statute of Limitations

Article 138 of the Civil Code of Georgia stipulates that one of the grounds for termination of the statute of limitations is the filing of a claim by an authorized person or the satisfaction of the claim in another way (application to a state body or court and/or enforcement action).

It should be noted that when terminating the limitation period, a number of procedural-legal aspects should be taken into account, which will be discussed in detail.

1.1. The question of the adequacy of the party in the context of the termination of the statute of limitations

A person who believes that his/her right has been violated has the right to initiate a case in court.[69] In some cases, the plaintiff may err in the person of the obligor or have a misconception about their right. This factual circumstance can be revealed at the stage of the legal process. The Procedural law does not provide for the existence of an improper party as a ground for dismissing a claim. This occurrence is subject to revision at the next stage of receiving the lawsuit.[70] This is why the question naturally arises whether the involvement of an improper plaintiff or defendant in the litigation process leads to the termination of the statute of limitations.

[67] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of November 15, 2011 in the case AS-988-1021-2011.
[68] A. Kobakhidze, "Civil Law, I, General Part", Ltd. "Herald of Georgia" Press, Tbilisi, 2004, p. 360.
[69] Law of Georgia "Civil Procedure Code of Georgia", Part 1 of Article 2, Departments of the Parliament of Georgia, №47-48, 31 / 12.1997, Registration Code: 060.000.000.05.001.000.301.
[70] Sh. Kurdadze, N. Khunashvili, "Georgian Civil Procedure Law", Second Edition, "Meridiani" Publishing House, Tbilisi, 2015, p. 163.

At the initial stage of the case, the court is not aware of the suitability of the plaintiff or the defendant.[71] The court has less discretion in changing the wrong party. If the proper plaintiff is identified, the court must replace it.[72] In general, the relevant party in the process is a person who has a material-legal interest in a particular case.[73] A person's child or spouse may not be allowed to speak in the proceedings. The change of the improper party in the proceedings should be considered as a change of claim. Accordingly, the defendant should be able to indicate the statute of limitations when the claim is statute-barred at the time the claim is served on it.[74] The idea that a claim brought by an improper plaintiff or an improper defendant should not lead to the expiry of the statute of limitations must be fully shared,[75] since the termination of the claim is caused only by a suit filed by an authorized person.[76] In discussing the statute of limitations in one of the cases, the Supreme Court rightly stated that it could not assess the issue of statute of limitations on the claim because the claim had not been brought against the proper defendant.[77]

However, a different opinion is expressed. In particular, erroneous reference to a party in a lawsuit should lead to the termination of the statute of limitations only when it is possible to identify the creditor or the debtor through an explanation.[78]A similar solution to the issue can be associated with insurmountable complexity as it is difficult to identify the appropriate creditor or debtor at an early stage of the litigation process. However, the issue of the subject obliged to explain is also vague.

The research of the issue should be carried out in close connection with the consequences of the expiration of the statute of limitations. It should be noted that the delay of the statute of limitations leads to the rejection of the claim by the creditor.[79] However, the court will consider the issue of limitation only if it is disputed by the party.[80] Accordingly, the statute of limitations has no effect without reference to the party.[81]

In considering this issue, the above-mentioned circumstance should be considered as essential. Since the examination of the statute of limitations by the court is done only with the reference of the party, it is necessary that this reference be made by an authorized person. The will of the proper and improper parties may not be consistent. Taking into account the will of the improper plaintiff or defendant would be incompatible with the requirement of stability of civil turnover as well as equal protection of the interests of the parties. The will expressed by an unauthorized person cannot replace the will of the appropriate party, and each participant in the process bears the risk that the wrong data will be reflected by them in the lawsuit. Accordingly, in assessing the issue of statute of limitations, only the will expressed by the appropriate party should be taken into account. However, since the proper replacement of the improper plaintiff is carried out

[71] T. Liluashvili, G. Liluashvili, V. Khrustali, Z. Dzlierishvili, Civil Procedure Law, Part I, "Samartali" Publishing House Tbilisi, 2014, p. 144.
[72] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 11 July 2007 in the case AS-322-675-07.
[73] Kurdadze, Khunashvili. See footnote 5, p. 162
[74] R. Burbulla, Parteiberichtigung, Parteiwechsel und Verjährung, Monatsschrift für Deutsches Recht, 61. Jahrgang, Heft 8, 2007, 445.
[75] G. Amiranashvili, The Impact of an Authorized Person's Appeal on the Limitation of Complaints, Student Law Journal, European Law Students Association, 2013, p. 66; A. Koller, Entry Brechung der Verjährung, Swiss Jurisprudence 113 (2017) Nr. 9, 2017, 201.
[76] Co-authors: Editor L. Chanturia, "Commentary on the Civil Code of Georgia", Book I, "Samartali", Publishing House Tbilisi, 1999, p. 332.
[77] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of November 7, 2011 in the case AS-352-335-2011.
[78] Burbulla, 444.
[79] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of December 27, 2018 in the case №AS-1428-2018, paragraph 96.
[80] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of June 9, 2014 in the case №AC-880-838-2013.
[81] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of January 9, 2015 in the case №AS-307-289-2014; Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of April 17, 2015 in the case №AS-58-57-2014.

without termination of the proceedings, the relevant moment of termination of the statute of limitations should be considered not the date of filing a lawsuit, but the moment of involvement of the proper plaintiff in the litigation process. This is entirely reasonable in view of the substance of the statute of limitations.

1.2. Impact of a refusal to accept a claim on the statute of limitations

Article 140 of the Civil Code of Georgia regulates the legal consequences of rejecting a claim and leaving the claim unconsidered in the context of statute of limitations. In particular, leaving the claim unconsidered does not lead to the termination of the statute of limitations, while the repeated submission of the claim by the authorized person leads to the termination of the statute of limitations from the date of filing the first claim.

In some cases, the claim may meet the formal requirements established by law, therefore, be registered by the Chancellery of the Court, but the judge may reject the claim on any of the grounds provided for in Article 186 of the Civil Procedure Code of Georgia (hereinafter referred to as the CPCG). According to the literal explanation of Article 140 of the Civil Code, it applies only in cases of rejection of the claim by the plaintiff and leaving the claim unconsidered. Consequently, since this list does not include the rejection of a claim, it is possible that this procedural document will lead to different legal consequences in terms of statute of limitations. In one of the litigation cases, the parties argued with reference to this argument that the rejection of the claim is another procedural document and should not fall within the scope of Article 140 of the Civil Code.[82]

The court made a significant explanation regarding the issue under consideration. In particular, the grounds for termination of the statute of limitations are only the application or claim of the person that has been accepted by the court,[83] and if the authorized person refuses to accept the application or claim in the proceedings, the statute of limitations will not be terminated.[84]

A similar approach is laid down in Austrian law. In particular, the termination of the statute of limitations on the filing of a claim is based on the existence of several preconditions: reaching the claim in court, continuing the proceedings properly or making a decision desirable for the plaintiff.[85] Accordingly, the ground for termination is valid only if the court continues the litigation process and makes a final decision.[86]

In the study of this issue, the title of Article 140 of the Civil Code itself should be taken into account, which generally addresses the rejection of the lawsuit. This includes all cases when the case is not considered on the merits. Accordingly, Article 140 of the Civil Code must be interpreted in terms of its purpose and not the literal meaning of the terms used.[87] At the same time, the legal consequences of revealing the grounds for refusal to accept the claim in the court process are also noteworthy. Pursuant to Articles 272 and 275 of the CPCG, this leads to either the termination of the proceedings or the dismissal of the claim. Accordingly,

[82] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 23 July 2015 in the case №AS-646-612-2015, paragraph 24.
[83] Judgment of the Chamber of Civil Cases of the Tbilisi Court of Appeals of 2 December 2014 in Case №2B/2737-14.
[84] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 19 November 2007 in the case №AS-271-601-07; Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of January 26, 2016 in the case №AS-493-467-2015, paragraph 27.
[85] F. Gschnitzer, „Allgemeiner Teil des bürgerlichen Rechts “, Springer-Verlag, Wien, 1966, 251.
[86] Ibid.
[87] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 22 April 2013 in the case №AS-1586-1489-2012.

in the interests of the parties, such an interim act should not lead to the termination of the statute of limitations. However, in order to avoid any misunderstanding, it is advisable to indicate the case of refusal to accept the claim in Article 140 of the Civil Code.

However, in order to enforce the essence of the institute of statute of limitations and the will of the legislator, it is advisable not to limit the scope of Article 140 of the Civil Code to procedural documents issued by the court and to apply to acts adopted by other bodies, and the party has the opportunity to apply to the court in accordance with the general rule. For example, the rule established by Article 140 of the Civil Code may be applied to claims for payment of debts under Chapter XVI1 of the Law of Georgia on Enforcement Proceedings, when the Chairman of the National Bureau of Enforcement refuses to issue a debt repayment order. In this case, the party may, as a general rule, bring an action against the applicant.[88]

1.3. The effect of securing the lawsuit on the statute of limitations

Compiling a lawsuit requires finding certain documents, translating them, establishing a legal position. When the risk of infringement is imminent, it is possible to file a lawsuit for securing the lawsuit without the above-mentioned procedures. It is not necessary to formulate a clear legal position when applying to the court with a suit for securing a suit, it is enough to justify that without applying a measure to secure a claim, there will be a threat to the execution of the decision, otherwise to the violated right.[89]

Whether a statement of security for a claim filed before a lawsuit is a valid remedy for termination of the statute of limitations has already been the subject of a court hearing in one of the cases. Therefore, it is essential to discuss the main motivations.

Pursuant to Article 138 of the Civil Code, the statute of limitations is terminated if the authorized person files a claim to satisfy or determine the claim, or tries to satisfy the claim by other means, such as appealing to a state body or court, or taking enforcement action.

According to the court, the claim for securing a claim cannot be considered as a claim under the specified norm, as the claim must be directed to satisfy the claim or it must be made in defense of the substantive right or its establishment. Accordingly, in the event of such a statement, the court must have the opportunity to discuss and substantively resolve the dispute.[90] The statement on securing the claim does not serve to establish or protect the right, but its purpose is to create such preconditions for the plaintiff that in case of satisfaction of the claim, they can carry out the effective execution of the court decision without any obstacles, i.e. exercising the already established right.[91]

The court uses the security of the claim only if the plaintiff proves that the main claim that is being secured is substantiated and there is a reasonable probability of satisfying the claim.[92]

A different approach to this issue is established by German law. Paragraph 204 of the German Civil Code provides for the suspension of statute of limitations even if the claim is not for the exercise of a right but

[88] Law of Georgia on Enforcement Proceedings, Article 917, Paragraph 9, Legislative Herald of Georgia, №13 (20), 01/05/1999.
[89] Law of Georgia "Civil Procedure Code of Georgia", the first part of Article 191, Departments of Parliament, №47-48, 31 / 12.1997, registration code: 060.000.000.05.001.000.301.
[90] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 4 April 2011 in the case №AS-71-62-2011.
[91] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 4 April 2011 in the case №AS-71-62-2011.
[92] Explanatory Report on the Draft Law of Georgia on Amendments to the Civil Procedure Code of Georgia, №07-3 / 597/8, <https://info.parliament.ge/file/1/BillReviewContent/123544?> [L. s. 24.03.2021].

for the provision of legal aid for the proceedings.[93] The suspension of the statute of limitations shall be accompanied by a complete and, accordingly, substantiated statement submitted to the court before the expiry of the time limit.[94] The suspension of the statute of limitations is triggered by an application to the court for the provision of evidence.[95] In this case, the principle applies that the debtor no longer needs protection when the creditor has expressed a clear will to enforce the claim by using measures related to the proceedings.[96]

When filing a claim for security before filing a claim, a party reveals a clear will to pursue the claim later. Therefore, it should not be considered appropriate to restrict the claim for security purposes. The goal of the party, to finally enforce the decision, will become unrealizable in the statute of limitations. Accordingly, in the first place, the plaintiff's purpose is to protect the statute of limitations and then to achieve other purposes. However, since a claim for securing a claim also includes the submission of information on the material merits of the claim, it is advisable to file an application with a reasoned claim for securing the statute of limitations, which excludes the possibility of termination of the statute of limitations when filing an unsubstantiated claim. When considering the application, the judge at least partially discusses the material merits of the claim not only on the basis of the assumptions but also on the basis of the submitted documents.[97]

However, taking into account the peculiarities of the institute of securing the claim before initiating the lawsuit, when considering the issue of protection of the statute of limitations, it is advisable for the court to take into account the issue of filing the lawsuit within 10 days. The fact that the plaintiff does not file a subsequent claim negates the apparent will of the party to enforce the claim and increases the risk of abuse of the right by the latter. Accordingly, it is advisable to secure the claim before initiating the claim as a basis for termination of the statute of limitations only in the presence of the fact of subsequent filing of the claim.

2. Peculiarities of Making a Decision in Absentia in the Statute of Limitations

Chapter XXVI of the CCG regulates issues related to making decisions in absentia. Articles 229-230 of the CCG provide for two grounds for a default judgment: the failure of the party to appear or the defendant to file a counterclaim. Judgment in absentia is limited to the discretion of the judge. The claim will be satisfied only if the circumstance indicated in the claim legally justifies the claim. Otherwise, the judge will dismiss the claim.[98]

When making a decision in absentia, it is important to consider the issue of statute of limitations. The question is whether the court can refuse to satisfy the claim in the absence of grounds for a decision in absentia, taking into account the issue of statute of limitations. Since the grounds for making an absentee decision are different, each ground requires an individual assessment.

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[93] F. Peters, Der Antrag auf Gewährung von Prozesskostenhilfe und die Hemmung der Verjährung, JR Heft 4/2004, 2004, 137.
[94] BGH Urt. v. 22/03/2001 – IX ZR 407/98.
[95]T. Hoeren, IT-Recht, Universität Münster 2016, S. 144 <https://www.itm.nrw/wp-content/uploads/Skript_IT_Stand_April-2017.pdf> [L. s. 24.03.2021].
[96] M. Philipp, „Verjährungshemmung durch Rechtsverfolgung, Insbesondere ein Beitrag zur Behandlung verfahrensrechtlich fehlerhafter Rechtsverfolgungsmaßnahmen des §204 Abs. 1 BGB“, „Mohr Siebeck“, Tübingen 2018, 90.
[97] Law of Georgia on “Civil Procedure Code of Georgia”, the first part of Article 191, Departments of Parliament, №47-48, 31 / 12.1997, registration code: 060.000.000.05.001.000.301.
[98] Law of Georgia on “Civil Procedure Code of Georgia”, Part 2 of Article 230, Departments of Parliament, №47-48, 31 / 12.1997, registration code: 060.000.000.05.001.000.301.

2.1. Failure to file a counterclaim as a ground for making decision in absentia

The CCG is based on the principle of disposition of the parties. The principle of disposition, which is an obvious attempt to implement the private autonomy of the parties in the process, implies the ability of the parties to dispose of substantive and procedural rights.[99] The principle of disposition implies the freedom of a person to enjoy or refuse to exercise this right. Exercising the right is not an obligation.[100] The principle of disposition has its limits. In particular, what a party does not have the right to do beyond the proceedings cannot be granted a similar right in the proceedings.[101]

In addition to the principle of disposition, civil proceedings are conducted on the principle of adversarial proceedings, which implies an obligation on the part of the parties to submit the evidence necessary to substantiate their claims.[102]

The principle of adversarial rule excludes the involvement of the court in the process of obtaining evidence. It is up to the autonomy of the will of the parties to appeal to the court. The court is bound by the facts and evidence presented by the party.[103] The role of the court in this process is passive.

In the proceedings, the jurisdiction of the court is largely limited by four main possibilities: the presentation of additional evidence;[104] By requesting evidence; On-site inspection and examination.[105] The action of the court should not restrict the right of the parties to use the procedural form of defense. However, the actions of the court itself cannot be directed against the will of the parties.[106]

The specificity of the statute of limitations lies in the fact that after the expiration of the term established by law, the claim exists objectively and is not terminated; although, its realization depends on the desire of the defendant.[107] Demand remains as the so-called natural commitment. This is due to the regulation established by the Civil Code, according to which, in case of fulfillment of an older claim, it is not subject to return, according to the norms regulating unjust enrichment.[108]

The right to refuse to fulfill the obligation is the opposite of the obligated person. Therefore, it is necessary for this person to exercise this right.[109] A person can exercise his material-legal right as he/she wishes, to tolerate or not to tolerate the violation of the right.[110] The court cannot examine the statute of limitations on its own initiative.[111] However, there are objections that the court must consider on its own initiative, such as opposition to the prohibitions of the transaction, lack of form, limited legal capacity or the need for

[99] Liluashvili, Liluashvili, Khrustali, Dzlierishvili, see. Footnote 6, p. 77.
[100] Ibid., P. 80.
[101] Ibid., P. 85.
[102] K. Kvinikadze, Reduction of Penalty for Breach of Contract by the Court as a "Judicial Intervention" on the Principle of Contractual Freedom, Journal of Justice and Law №2 (50) '16, Tbilisi, 2016, p. 89.
[103] Kurdadze, Khunashvili, see. Footnote 5, p. 100.
[104] Law of Georgia "Civil Procedure Code of Georgia", Article 103, Departments of Parliament, №47-48, 31 / 12.1997, registration code: 060.000.000.05.001.000.301.
[105] Kvinikadze, see footnote 37, p. 88.
[106] I. Merebashvili, Application of the Principles of Adversarial Proceedings and Cctivity of Judges During Civil Cases in Court, Journal of Justice and Law №4 (23) '09, Tbilisi, 2009, p. 25.
[107] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of June 9, 2014 in the case №as-880-838-2013.
[108] R. Bussert, „Bürgerliches Recht für Betriebswirte", 2. Aufl., Gabler Verlag, Wiesbaden, 2012, S. 114.
[109] H. Schäfer, B. Fuhrmann, Zivilrechtliche und rechtsökonomische Aspekte zum Dieselskandal der Volkswagen AG, Wirtschaftsdienst, 98 Jahrgang, Heft 4, (243-251), Heidelberg, 2018, S. 243.
[110] Liluashvili, Liluashvili, Khrustali, Dzlierishvili, see. Footnote 6, p. 81.
[111] L. Chanturia, General Part of Civil Law, Samartali Publishing House Tbilisi, 2011, p. 128.

support.[112] Limitation is a type of objection which cannot be taken into account without reference to the party.[113] After the reference to the statute of limitations by the party, it is within the competence of the court to determine whether the statute of limitations was suspended.[114]

A similar regulation is established by the English legal system. In particular, the 1980 Limitation Act is a means and not a right and it has no effect unless declared by a party.[115] However, the 1980 statute of limitations is a legal objection that a party can rely on. A party is not obliged to use the said objection, however, as a rule, it has the said right.[116]

The reference to the statute of limitations by the court can rightly be considered a violation[117] of the principle of adversarial proceedings, since the will of the party is not considered in this process. The will of the party is crucial to the final resolution of the issue. The non-use of the counterclaim by the party in the proceedings leads to the satisfaction of the claim. Therefore, it is up to the individual to decide whether to take advantage of such an objection. If the result of the statute of limitations automatically results in the termination of the claim, this may lead to a violation of the dignity of an honest citizen.[118] That is why the explicit will of the party is necessary for the legal result of the expiration of the statute of limitations.[119]

It follows from the adversarial principle that if a party is given the opportunity to defend a violated right in court, the other party has the right to defend its own interests, including to bring any legal remedies to challenge the defendant's position. In order to challenge the position and to intervene in this process by referring to the statute of limitations, the interests of the plaintiff would clearly be violated.[120]

It is advisable that the submission of a counterclaim by the defendant in the statute of limitations does not cause delays in the execution of the claim, refuse to satisfy the claim on this basis and make a decision in absentia against the debtor even when the claim is statute-barred.[121]

Based on the principle of adversarial proceedings, the prohibition of the statute of limitations to be taken into account by a judge is completely reasonable and in line with the interests of the party and the essence of the statute of limitations. The party may, regardless of the statute of limitations, wish to fulfill the obligation. Accordingly, the will of the party must be decisive in refusing to satisfy the claim on the grounds of limitation.

2.2. Absence of the defendant as a precondition for making a decision in absentia

Article 230 of the CCG provides for an absentee decision also in the event that the defendant has not appeared at the hearing and the statute of limitations has expired.[122] In the absence of the defendant, the

[112] H. Boeling, L. Chanturia, "Methodology of Decision-Making in Civil Cases", 2nd Edition, Tbilisi, 2003, p. 170-171.
[113] S. Dullinger, „Bürgerliches Recht Schuldrecht Allgemeiner Teil", Band II, 4. Aufl., SpringerWienNewYork, 2010, Rn. 1/35.
[114] Recommendations of the Supreme Court of Georgia on Problematic Issues of Civil Law Case Law, Tbilisi, 2007, p. 63.
[115] Ronex Properties vs John Laing Construction [1983] QB 393, 404.
[116] Oxford Architects Partnership vs Cheltenham Ladies Gollege [2006] APP.L.R 11/17, 15.
[117] T. Liluashvili, Civil Procedural Law, 2nd Edition, Law Publishing House, Tbilisi, 2005, p. 62.
[118] L. Rudkowski, „Wirtschaftsrecht: BGB AT, Schuldrecht, Sachenrecht", „Springer Gabler", Wiesbaden, 2016, 43.
[119] Ibid.
[120] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of March 25, 2013 in the case №1350-1275-2012.
[121] Mitgliedern des Bundesgerichtshofes, „Das Bürgerliche Gesetzbuch: mit besonderer Berücksichtigung der Rechtsprechung des Reichtsgerichts und des Bundesgerichtshofs", §222, Band I, 12. Aufl., 1982, Rn. 1.
[122] Boelling, Chanturia, cf. Footnote 47, p. 172.

circumstances indicated in the claim and not in the explanation of the plaintiff are considered approved.[123] In the absence of a decision, the circumstances of the case cannot be investigated on the grounds that the party did not appear. Accordingly, when the defendant does not appear at the hearing and does not indicate the circumstances necessary for the statute of limitations on the claim, his/her protest will not be accepted at the stage of the absentee decision on the statute of limitations.[124] In the absence of the defendant, the decision in absentia to satisfy the claim is doubtful when the defendant in the counterclaim indicated the statute of limitations on the claim.

An argument inadmissible in favor of a judgment rendered in absentia cannot be considered inadmissible by a judge. The reference to the statute of limitations by the defendant in the counterclaim is a sufficient condition for considering the matter, since the party has expressed their will. Statute of limitations is a means and not a right.[125] In such a case, when the respondent indicated in the objection about the statute of limitations, the claim should not be satisfied. This cannot be justified by any convincing argument. The argument that after a specified period of time the creditor's actual and probable interest is no longer worthy of protection because he/she expressed his/her negligence[126] determined by his/her inaction does not serve to justify the contingency of the statute of limitations as it would result in a high intensity infringement of the defendant's interests. Accordingly, in the event that a party has indicated in the counterclaim that the claim is time-barred, its non-appearance should not be an unconditional precondition for satisfying the claim, as the judge has the right to assess the circumstances of the counterclaim and to dismiss the claim. However, in such a decision, the issue of the statute of limitations should be indisputable and requires only a legal examination.

3. Peculiarities of the Use of the Statute of Limitations in the Court of Higher Instance

One way to protect oneself from a lawsuit is to refer to the statute of limitations. However, is it permissible to file a statute of limitations at any time?

When discussing the counterclaim as a means of defense, it is important to mention its legal nature. In order to prove the purely procedural nature of filing a counterclaim, the will of the legislator may be cited, which, in contrast to the substantive and procedural counterclaims, indicates that a counterclaim may be conducted only in the process and directed against the enforcement of the claim.[127] However, from a procedural point of view, the two stages must be distinguished from each other. Filing a counterclaim leads to a rejection of the claim and thus improves the debtor's condition.[128] From a material-legal point of view, it can exist only beyond the feasibility of an existing claim, because a non-existent claim does not already exist.[129] When a party appeals against the statute of limitations, it is not necessary to specify a particular date; it is enough

[123] S. Chkhaidze, Absentee Decision in Civil Process - Main Problems, Analysis of Judicial Practice, Journal of Justice and Law №4'12 Tbilisi, 2012, p. 42.
[124] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of October 9, 2015 in the case №AS-898-860-2014.
[125] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of March 25, 2013 in the case AS-1350-1275-2012
[126] M. Schmidt-Kessel, „Ein einheitliches europäisches Kaufrecht? Eine Analyse des Vorschlags der Kommision", „De Gruyter" München, 2012, 529.
[127] C. Meller-Hannich, Die Einrede der Verjährung, in JuristenZeitung, 60. Jahrgeburtstag, №13, 2005, 664.
[128] M. Klose, Vindikationsverjährung: Gewogen für verfassungswidrig befunden! Rewiss (RW) Heft 2, 2014, 233.
[129] Ibid.

for the debtor to just argue with the creditor that his claim is overdue, which may not be expressed in a specific legal sense as "not demanded to fulfil the commitment for specified amount of time"[130]

Filing a counterclaim to the statute of limitations is not unrestricted. The reference to the statute of limitations of the representative in one of the cases was not considered by the court as a sufficient basis for assessing the statute of limitations and explained that from a procedural point of view, the statute of limitations is considered by the court only when the party in the case indicates it. As the counterclaim had not been disputed the statute of limitations, the removal of the representative from the proceedings without sufficient evidence does not provide an opportunity to consider the issue of statute of limitations.[131]

The court's reasoning on this issue is vague. The fact that the request in the objection does not indicate the statute of limitations should not deprive the party of the right to file the indicated objection during the substantive hearing of the case if he/she later learns about the mentioned fact. Otherwise, the stages of preparation and substantive consideration of the case will be lost and the judge will be able to make a decision only on the basis of the claim and the counterclaim.

Statute of limitations is considered as a factual circumstance of the case, while the party is limited in referring new facts and evidence to a higher instance. The issue of statute of limitations can be raised only in the court of first instance and partly in the court of appeal, while it is inadmissible in the court of cassation.[132] In the Court of Appeals, the parties have the right to submit any evidence, the admissibility of which is examined by the court in accordance with the rules established by the procedural law.[133]

Submission of new facts and evidence to the Court of Appeals is allowed only in cases precisely defined by law. However, the Court of Appeals must consider several circumstances. In particular, if the facts have arisen after the hearing of the case in the court of first instance, it must be admitted. In addition, the Court of Appeals would examine whether a party could present these factual circumstances and evidence in a court of first instance.[134]

Objection to the statute of limitations is admissible in the appellate instance if the court's assessment of the nature of the legal relationship between the parties differs from the plaintiff's assessment and the defendant has no opportunity to defend his/her interests given the objective circumstances.[135] The court of cassation cannot refer[136] to the statute of limitations of the claim, as it evaluates the decision of the Court of Appeals only in terms of legality. This is undoubtedly a logical solution to the issue.

The approach of German law to this issue differs slightly, in particular, the defendant can indicate the statute of limitations on the claim no later than the last instance hearing of the factual circumstances. The defendant no longer has the right to refer to statute of limitations in the Court of Cassation.[137] It is clear from the above-mentioned regulation that reference to the statute of limitations is permissible in the courts of first and appellate instance, while reference to the mentioned in the cassation instance is excluded. In addition, paragraph 531 II of the German Code of Civil Procedure sets out the preconditions for the admissibility of

[130] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of February 17, 2017 in the case №AS-1063-1023-2016; Chanturia, see. Footnote 46, p. 128.
[131] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of January 12, 2012 in the case №AS-1509-1517-2011.
[132] Important Definitions of the Supreme Court of Georgia, Tbilisi, 2016, 96.
[133] Sh. Kurdadze, "Consideration of Civil Cases in Superior Courts", Meridiani Publishing House, Tbilisi, 2006, p. 25
[134] Liluashvili, see Footnote 52, p. 348-349.
[135] Important Explanations of the Supreme Court of Georgia, Tbilisi, 2016, p. 96.
[136] Judgment of the Chamber of Civil Cases of the Supreme Court of Georgia of 25 March 2013 in the case №-1350-1275-2012.
[137] Members of the Bundesgerichtshofes, see Footnote 56, Rn. 1.

a defense in the Court of Appeal. In particular, it is permissible if the submission in the first instance is not caused by the negligence of the party.

The submission of a statute of limitations by the party to the district/city court at all stages should be considered a reasonable solution to the issue, and to a limited extent in the appellate court, as procedural law imposes restrictions on new facts and evidence before the appellate court. However, if due to objective circumstances it was impossible for the person to refer to the statute of limitations in the district/city court, this should be allowed during the hearing of the case in the appellate instance, which examines the decision from both factual and legal point of view. As for the Court of Cassation, due to the limited review established by law (only the review of legality), the reference to the statute of limitations in the Court of Cassation should be named as an objective impossibility.

Conclusion

Theses and propositions identified as a result of working on the paper can be formulated in the form of the following concluding propositions:

1. The law does not define the legal consequences of involving an improper plaintiff or improper defendant in the litigation process in terms of statute of limitations. It is advisable that the will of the improper plaintiff or defendant does not affect the flow of the statute of limitations. In general, the will expressed by an unauthorized person cannot replace the will of the appropriate party and each participant in the process bears the risk that will result from the reflection of erroneous data by them in the lawsuit. Therefore, in assessing the issue of statute of limitations, only the will expressed by the appropriate party should be taken into account. However, since the improper plaintiff is properly replaced without termination of the proceedings, the relevant moment of termination of the statute of limitations when filing a lawsuit should be considered not the date of filing a lawsuit with the court, but the moment of proper plaintiff involvement in the litigation.

2. According to the verbal explanation of Article 140 of the Civil Code, it applies only in cases of rejection of the claim by the plaintiff and leaving the claim unconsidered. Consequently, since this list does not include the rejection of a claim, it is possible that this procedural document will lead to different legal consequences in terms of statute of limitations. In the study of this issue, the title of Article 140 of the Civil Code itself should be taken into account, which generally addresses the rejection of the lawsuit. This includes all cases when the case is not considered on the merits. Accordingly, Article 140 of the Civil Code must be interpreted considering its purpose and not the literal meaning of the terms used. However, in order to enforce the essence of the institute of statute of limitations and the will of the legislator, it is advisable not to limit the scope of Article 140 of the Civil Code to procedural documents issued by the court and to apply to acts adopted by other bodies by which the dispute is not substantially settled and the party has the opportunity to appeal to the court in accordance with the general rule.

3. The legislation leaves open the question of the impact of the statute of limitations before the lawsuit is filed. When filing a claim for security before filing a claim, a party reveals a clear will to pursue the claim later. Accordingly, it should not be considered appropriate to limit the claim for security purposes. It is advisable to file an application with a reasoned statement of securing the claim followed by termination of the statute of limitations. However, taking into account the peculiarities of the institute of securing the claim before initiating the lawsuit, when considering the issue of protection of the statute of limitations, it is

advisable for the court to take into account the issue of filing the lawsuit within 10 days. The fact that the plaintiff does not file a subsequent claim negates the apparent will of the party to enforce the claim and increases the risk of abuse of the right by the latter. Accordingly, it is advisable to secure the claim before initiating the claim as a basis for termination of the statute of limitations only in the presence of the fact of subsequent filing of the claim.

4. In the absence of the defendant, the decision in absentia to satisfy the claim is doubtful when the defendant in the counterclaim indicated the statute of limitations on the claim. An argument inadmissible in favor of a judgment rendered in absentia cannot be considered inadmissible by a judge. The reference to the statute of limitations by the defendant in the counterclaim is a sufficient condition for deliberation on the matter since the party has expressed their will. Accordingly, in the event that a party has indicated in the counterclaim the claim to be statute-barred, its non-appearance should not be an unconditional precondition for satisfying the claim, as the judge has the right to dismiss the claim if assessed and confirmed in the counterclaim. However, in such a decision, the issue of statute of limitations should be indisputable and requires only a legal review.

5. The law does not specify a specific time for filing a statute of limitations in common courts. It is advisable to allow the filing of a statute of limitations in the district/city court at all stages, but with limited extent in the appellate court, as procedural law imposes restrictions on the review of new facts and evidence in the appellate court. As for the Court of Cassation, the use of the statute of limitations in the Court of Cassation should be named as an objective impossibility due to the limited review established by law (only the review of legality).

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ECONOMICS

ASPECTS OF TAXATION OF SO-CALLED PROFIT TAX ESTONIAN MODEL AND ITS IMPACT ON BUSINESS ENVIRONMENT OF GEORGIA

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Abstract

Existence of investment policy and investments in general play an important role in boosting the country's economy and maintaining the growth trends of macroeconomic factors. The Georgian economy at the policy level determines the need to achieve a large scale of both foreign direct investment and domestic investment. Consequently, the opportunities of the Georgian economy are directly related to the volume of investments, and the volume of investments is conditioned by the existence of an effective and efficient investment climate in the country. Which institutional factor holds the greatest weight in the investment environment? - Tax policy is one of the most important issues among institutional factors. For the reason of economic stimulation and development, Georgian government adopted changes in relation to entrepreneurship activates. Various researches and prognosis were made regarding implementation of so called “Estonian Model” of profit tax by Governmental, Business and Academic bodies. Pre and post reform period arose many questions and the answers are still vague. What contribution was made by the reform for encouragement of the Foreign Direct Investments? How has the labor productivity been increased? How has the reform simplified access to the capital resources? In this research paper the author discusses the Profit tax “Estonian Model” prognosis and expectations as well as analysis of the actual results in Georgia and Estonia. The Author conducts qualitative and critical research methodologies. On the basis of demonstration of the actual circumstances, the reform has been assessed in short and long term perspective.

Keywords: Profit Tax Estonian Model; Corporate Taxation; Tax Burden & FDI; Tax Policy.

Introduction

In the context of economic expansion, where in the wake of the development of technology and capital markets, it has become critical to diversify the sources of income of individuals (including sole proprietors) and legal entities, both strategically and emerging countries, as well as by type of economic activity. Consequently, great importance is attached to the tax policies of the country, including the aspects of international taxation of transactions. The activities of transnational and international companies in different geographical areas lead to different tax conditions of companies, which affects the financial performance of the company in the reporting periods, and globally, similar results affect the placement of foreign direct investment or local investment growth. Having said this, tax law plays a fundamental role in creating a stimulating legal environment for businesses. To achieve this, tax law must offer entrepreneurs favorable, predictable and fair terms. It should be noted that since gaining independence, Georgia has been able to implement significant reforms to develop the fiscal efficiency of the economy. Consequently, one of the most successful reforms can be considered the country's tax policy orientation.

1. Profile of Georgian Tax System

Daily changes in the economic environment have added to the importance of tax policy in the various decision-making processes of firms. The economic policy of the government can be achieved mainly through tax policy. The so-called Tax incentives are a tool for effective growth of domestic investment and foreign direct investment. Tax incentives imposed by countries should be carefully planned so that fiscal incentives do not lead to the existence of tax loopholes, while firms can benefit from tax evasion and avoidance. The reforms (evolution) implemented in tax law during the independence of Georgia can be divided into three main parts. The modern tax system in Georgia was first established in 1997, which took into account important aspects of international experience and the findings of developing countries.

As for the wave of reforms, for the First Time such significant changes and reforms were implemented after the Rose Revolution in 2005, which fundamentally transformed the economic scale of the country and led to an increase in foreign direct investment. Moreover, according to the Tax Reform and Poverty Index, which was conducted by Forbes magazine, Georgia has made significant progress and has taken a leading position.[1] With the reforms implemented, the country has become a leading jurisdiction in the region with its liberal economic policies and significant reduction of the tax burden. The so called second wave of the reform can be considered the year 2011, where the relationship with the state structure (Revenue Service) was significantly simplified. These changes have eased the time required for bureaucratic and administrative processes and significantly digitized tax processes. An electronic website (rs.ge) has been set up by the Revenue Service, an agency within the Ministry of Finance, which allows taxpayers to independently manage processes electronically. Processes include communication with the Revenue Service, production and submission of declarations, management of primary documents - submission, receipt, etc. As for the Third Wave, it is directly related to the step taken to stimulate foreign direct investment. In order to increase and accelerate the economic prosperity, in 2016 the so-called Estonian Model of Profit Tax system was introduced. The tax regime came into force in the reporting period of 2017. Over the years, the Tax Code has undergone various changes related to the fulfillment of its obligations under the Association Agreement with the European Union.[2]

According to a joint study by audit and business consulting firm PwC and the World Bank, Georgia ranked 14th out of 190 countries in terms of Paying Taxes in 2020.[3] Tax simplicity is assessed according to three criteria, namely:

1) The number of taxes the company has to pay

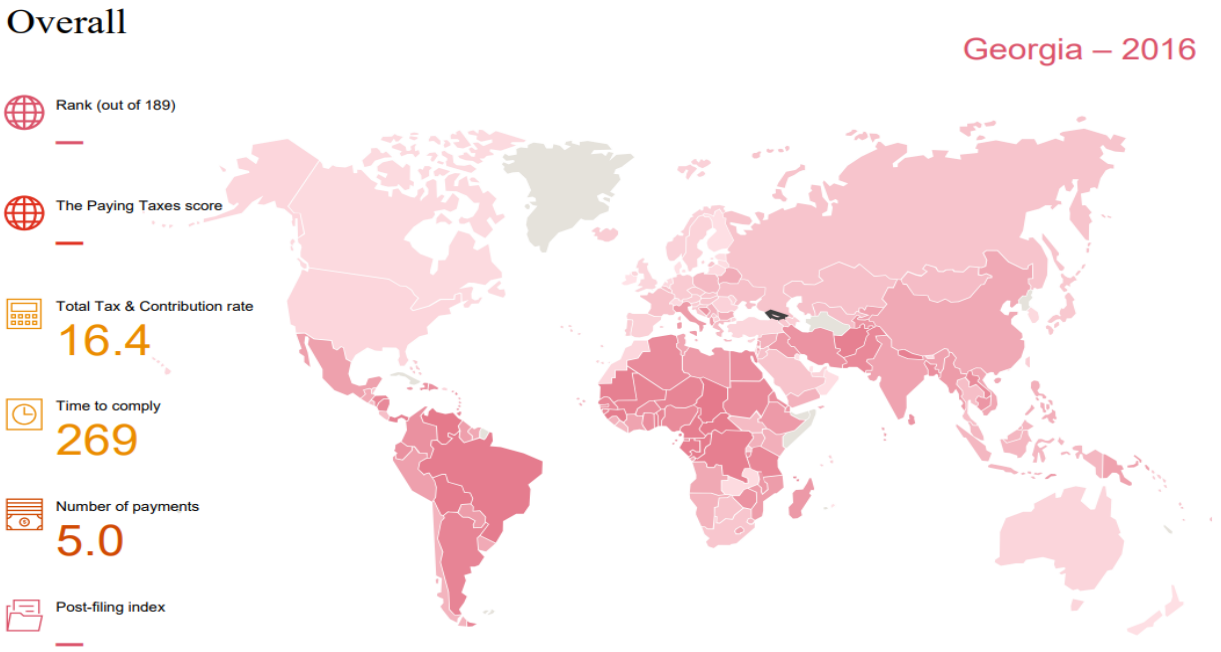
2) The number of hours the company spends on average in paying taxes during the year

3) Total tax rate, which shows the share of commercial profit in total taxes paid by the company [4]

As for the Index score in 2016, Georgia ranked 40th in terms of ease of payment.

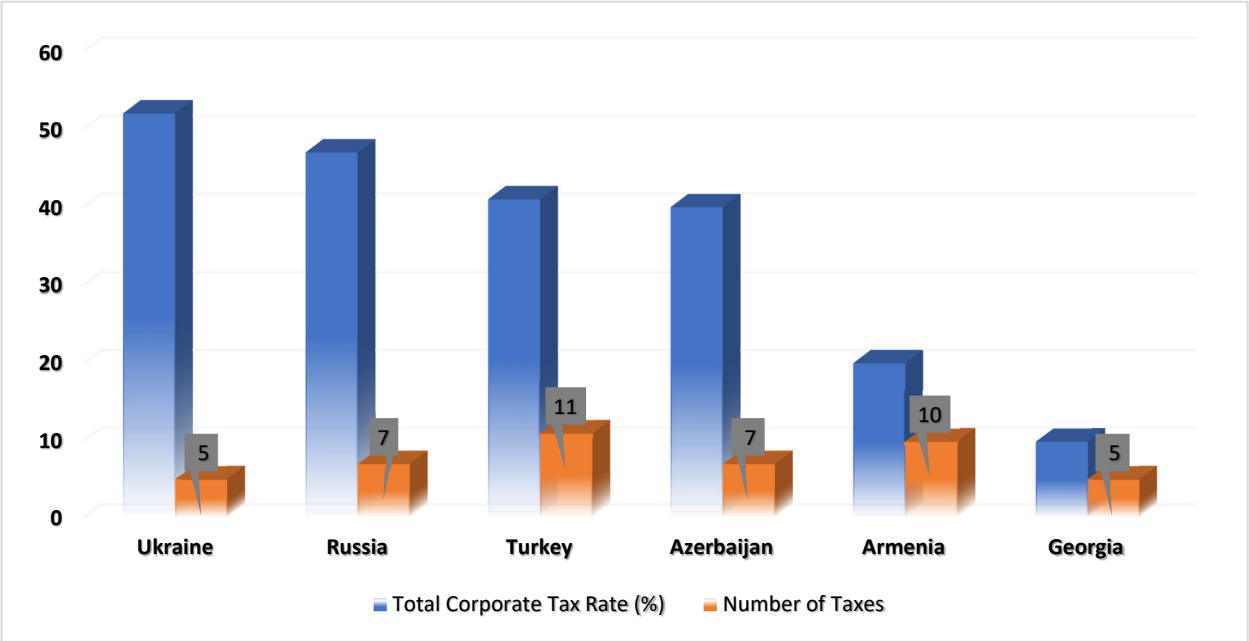
Figure 1 - Paying Taxes 2016

[1] Forbes Magazine, „2009 Tax Misery and Reform Index", https://www.forbes.com/global/2009/0413/034-tax-misery-reform-index.html?sh=1004e65e43b3, [L.s. 11.04.2021].
[2] N. Gilauri, „Practical Economics", „Palgrave Macmillan", 2017, pg. 31-40.
[3] World Bank Group and PwC, „Paying Taxes 2020", https://www.doingbusiness.org/en/reports/thematic-reports/paying-taxes-2020, [L.s. 12.04.2021].
[4] World Bank Group and PwC, „Paying Taxes 2016",https://www.pwc.com/gx/en/paying-taxes-2016/paying-taxes-2016.pdf, [L.s. 12.04.2021].



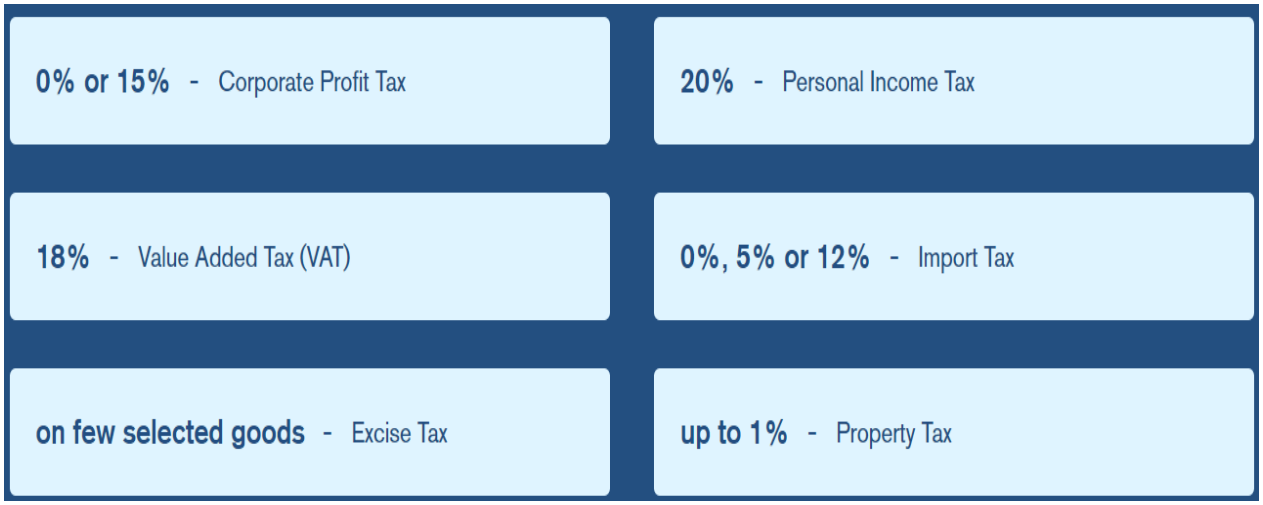
According to the mentioned research in 2020, the author made a comparison according to the number and rates of taxes in Georgia and its neighboring countries. Number of taxes and total tax rates.

Figure 2 - Corporate Tax Rate vs. Number of Taxes



The tax rates have been significantly reduced in the wake of substantive and administrative changes. The tax classification in force today looks like this:

Figure 3 - Tax Rates in Georgia



According to the World Bank 2020 research of Doing Business, Georgia dropped one point in the ranking and took the 7th place among 190 countries with 83.7 points. Although the country had a 0.2 point improvement, it did not turn out to be enough to advance in the country rankings. The study (rating) has been conducted by the World Bank since 2003 and up to 190 countries participate in the study. The Ease of Doing Business Index measures 10 items in your quotes. In particular, these are: 1) starting a business; 2) construction permit; 3) Email. Supply; 4) property registration; 5) receiving a loan; 6) protection of the rights of minority investors; 7) payment of taxes; 8) trade between borders; 9) execution of the contract; 10) Insolvency.[5]

The Doing Business Index is one of the most valuable and defining tools for making investment decisions, so the Georgian government has implemented significant reforms since 2005 to improve its ranking. Georgia is ahead of countries such as Great Britain, Norway, Estonia, Germany, etc. However, it lags behind the US, Denmark, Singapore, and New Zealand. Country assessments in recent years look like this.

The goal of the Georgian government is to maintain and improve its position in the ranking of doing business. The reason for this is the attractiveness of the Georgian business environment from investors and, in general, it is profitable to be at the forefront of such assessments and studies. In recent years, we can highlight several important reforms that have been carried out by the government of the country and also, have significantly contributed to the positive assessments of the country and the promotion of the elements described above. From the reforms we can single out:

1. Profit tax reform. Introduction of the so-called Estonian model;

2. Removal of the mandatory component of value added tax as a result of mergers;

3. Opportunity to start a business, namely registration, opening bank accounts, creating a tax administration portal, etc. All this can be done in one working day.

However, there are some important elements that need and require significant improvement. In particular, the judiciary and the protection of business rights; Increase access to and access to credit; Execution of contracts; Insolvency proceedings, etc. The assessment of Georgia's positions in each of the elements looks like this:

[5]See footnote 3.

Figure 4 - Assessment of Elements based on DB 2020

Following in the footsteps of the reforms carried out, Georgia has become a leader in the region and, according to a study by many international organizations to the following year indexes, one of the leading countries in the world ranking in terms of ease of starting a business.[6]

The presence of leading positions in those elements are conducive to the country's economic development and attracting foreign direct investment. However, it should be noted that even being in the first position in the rankings is not enough for a country like Georgia, because we have to look for problems in other elements, which are not evaluated in the study of doing business. Such elements are a deep and fundamental problem of the country and include issues such as education, political instability, territorial location and the existence of conflicts, judiciary, lack of confidence and lack of sense of business protection, including protection of private property, unprofessional workforce.

2. Tax Purposes and Essential of Profit Tax

The country's tax policy has important goals and objectives. And the existence of taxes is an important tool for policy-making. In general, the purposes and effects of taxes are based on the so-called 4 R function.

The first R represents the means of generating income. Revenue function through which the state functions and fulfills its obligations. The second R is a distribution function. Redistribution function, where the role of the state is primarily manifested in vulnerability. The next R implies influencing the production / purchase of state-defined services and goods. Basically this is done by value adjustment and is called the Repricing function, e. g. Import tax on goods, taxation of fuel excise, etc. The fourth R has only a historical load, because in the modern era there is no country tax system with a Representative function. This implies the participation of taxpayers in the management or representation of the country.[7]

Taxation is classified according to its content and nature, in particular:

a. According to the content, direct and indirect (indirect) taxes;

[6] PwC, „Doing Business and Investing in Georgia" 2019, https://www.pwc.com/ge/en/assets/pdf/Doingbusiness _2019_Final.pdf [L.s.12.04.2021].
[7] OECD, „Fundamental principles of taxation", 2014, chapter 2, pg. 30-49.

b. Progressive, regressive, proportional and fixed type taxes according to the change of rates;
c. General-state and local (also referred to as optional) taxes;
d. Target and general / universal taxes according to the purpose;
e. Out of regularity can be systematic and one-time taxes.

Profit tax, according to its content, is a direct type, systematic tax based on proportional basis, which belongs to the general state type taxes. Profit tax plays an important role in shaping the country's budget.[8]

3. Assessment of Profit Tax Estonian Model

As mentioned above, the Georgian government took an important step in 2017 by changing the tax payment period and the principle of taxation in the third wave. The so-called The Estonian model of profit tax implies the shift of the profit tax period from its generation to distribution. In particular, the so-called classic model. Instead of the accrual principle, switch to the cash principle, which implies the payment of profit tax only in the case of its distribution. The main pathos of the reform was to encourage foreign direct investment and domestic industrial investment in the country and to promote the growth of macroeconomic factors. At some point in time, this decision should provide incentives for investment decisions, especially:[9]

1. Increase of economic / macroeconomic parameters;

2. Increase / expansion of capital scale;

3. FDI - acceleration of foreign direct investment;

4. Improving the (investment) environment needed to start a business;

5. Minimize risks related to crisis factors from the business side.

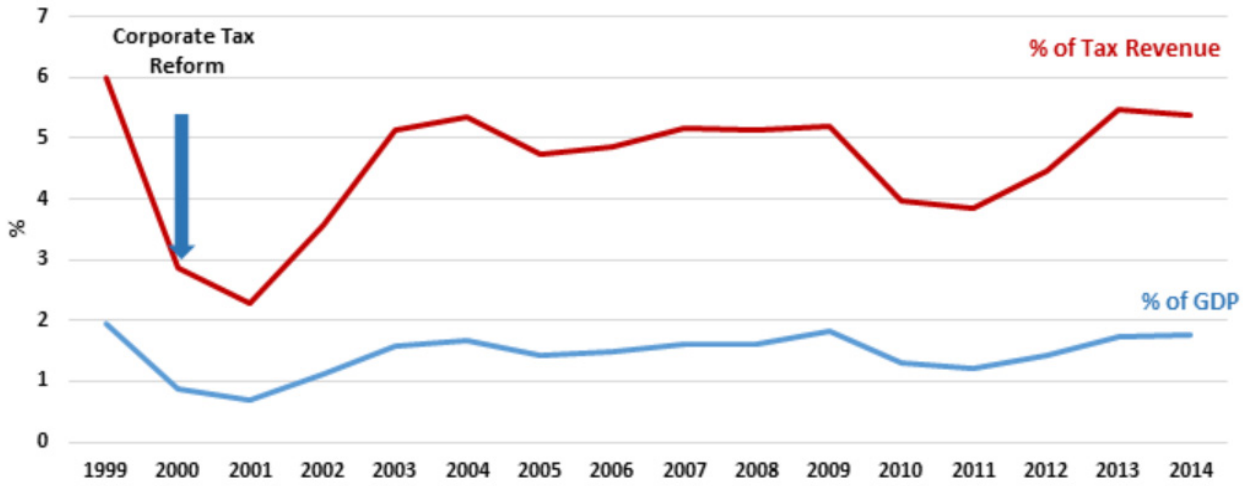
The so-called distributed profit the Estonian model has been in force in the country where it will be implemented for the first time for more than 16 years, and the basic principles of corporate taxation in Estonia are fully in line with the example of Georgia. The perspective and inspiration for its implementation and economic development in Georgia came from here. The essence of corporate tax in Estonia implies the moment of taxation only in case of its distribution, in particular, both cash and non-cash, including the distribution of dividends in tangible and intangible forms, redemption of capital or shares, including reduction of capital, distribution of capital assets in the liquidation process if it does not exceed first contributions by partners.[10] The principles of corporate taxation are based on the distribution of the wealth created by the enterprise to its final beneficiaries, in monetary - tangible or intangible form, so any type of transaction that meets the above principle is a profit distribution and is a taxable transaction, including direct or indirect transactions.[11] While it is not clear what direct distribution models are, non-directive pathways need to be considered. The tax authorities in order to close the bypass distribution, in order to legalize illegal income or to minimize and avoid money laundering risks, the Tax Code, which allows tax evasion through holes, the legislation provides for a detailed list of transactions. In particular, operations such as:[12]

[8] Government of Georgia, „Budget Monitory", 2016.
[9] Ministry of Finance, „Fiscal Policy and EU practice", 2016.
[10] J. Masso & Others, „Gross Profit Taxation Versus Distributed Profit Taxation and Firm Performance: Effects of Estonia's Corporate Income Tax Reform", „JOUR" 2011, pg. 49-55.
[11] M. Leibrecht & Others, „Do low corporate income tax rates attract FDI? – Evidence from Central- and East European countries", „Applied Economics" 41, 2009, pg. 2691–2703.
[12] Clause 97, Law of Georgia „ Georgia Tax Code" 12, October, 2010.

- Transactions related to offshore countries, where the performed operations are not controlled for the purposes of the Tax Code of Georgia;
- Representation expenses that exceed the marginal amount. Marginal amount - not more than 1 percent is related to the income and expenses incurred by the enterprise, where the Georgian tax code determines which element one percent should be taken;
- Provision of services and / or goods, including transfer of funds, free of charge (without compensation);
- Finally, any type of transactions that are not related to or associated with the economic activities of the enterprise, as well as transactions that cannot be substantiated by primary documents.

As in Georgia, the new corporate tax regime introduced in Estonia has led to a reduction in budget revenues for the country. According to the official data of the Statistics Service, the revenues in the year of implementation of the reform were almost halved compared to the data of the previous year. The reform not only had an impact on revenues, but also a significant reduction in GDP.[13] In terms of numbers, corporate revenue fell from 1,600 million to 900 million, while relative to GDP, it fell from 2 percent to 0.92 percent. However, the recovery of economic factors began in the years following the introduction of the reform, while not all of these periods saw a decline in foreign direct investment[14].

Figure 5 - Corporate Income Tax Revenue, Estonia, 1994 - 2004



According to well-known researchers by Leibrecht Markus & Bellak, Christian, in other things being equal, fiscal policy reform alone may not be a decisive factor, as factors such as market size, geographical location, labor market, geopolitical situation, etc. are driven by foreign direct investment and so on[15]. In addition, according to a study by Masso, Jaan and Meriküll Jaanika and Vahter, Priit, the reform implemented by the country significantly increased the scale of liquid assets and provided loans to finance the activities of

[13] Geostat, 2020.
[14] M.Kantsukov, and P. Sander. 2018. 147-156.
[15] See footnote 11.

companies. Moreover, the correlation rate between labor productivity and investment has increased. Taking into account the above factors and the results obtained, business sustainability has developed, which has given companies an additional opportunity to more or less cope with the global financial crisis of 2008.[16]

As for Georgia, the implementation of the profit tax reform should have significantly reduced the budget tax revenues, while corporate taxation played an important role in the formation of the budget, in particular, it was the third largest type of tax in the formation of the budget. The contribution of profit tax in terms of revenue was almost twelve percent of total treasury revenue and ten percent of treasury expenditure. All the forecasts (including those made by financial institutions) indicated that the abolition (deferral) of corporate tax would lead to a reduction in budget revenues in the short run, while in the long run it should have been a positive charge carrier. In response to declining revenues, the government has increased revenues from other taxes and reduced the crisis by responding to the problem of fiscal losses by raising excise rates, creating additional tax burdens on a number of businesses and services.

Figure 6 - Profit Tax & Total Tax Revenue in Georgia

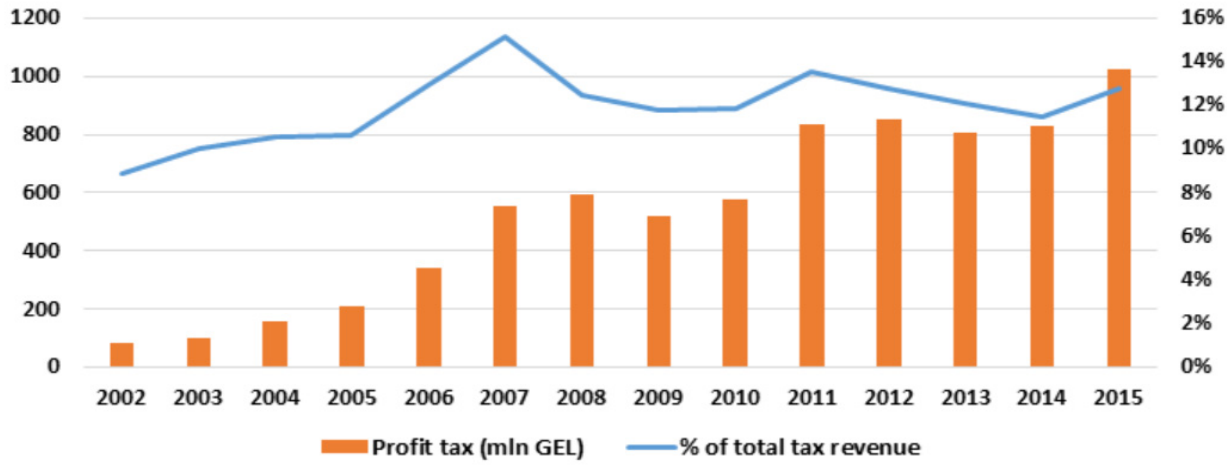
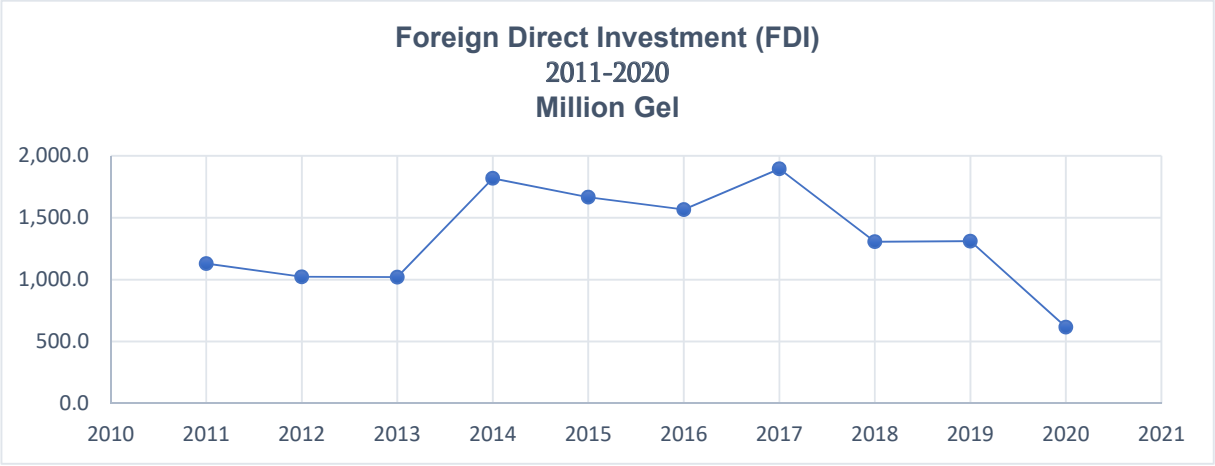


Figure 7 - FDI in Georgia 2011 - 2020



[16] See footnote 10.

Profit tax held a stable share of the country's budget revenues, and its percentage, on average in recent years, was 11%. Profit tax and budget income share by years looks as follow:

Figure 8 - Profit Tax vs. Budget share in %

Year	2013	2014	2015	2016	2017	2018	2019	2020
Profit tax (million GEL)	807	829	1025	1055	756	736	866	919
Share in state budget revenues (%)	13	11	13	12	8	7	8	8

In other words, the content of the reform is based on the theory of economic growth and the studies that have been conducted between economic growth and the size of government, obviously the size of government, as a result of the reform is reduced to other equal conditions. According to the majority of studies conducted to determine the correlation between economic growth and government size, a reduction in the size of government, in other things being equal to GDP, is accelerating the rate of economic growth.

In the fall of 2015, USAID G4G project in Georgia the so-called corporate tax was implemented within the framework of funding for "Governance for Development". Estimating the implementation of the Estonian model with the RIA - Regulatory Impact Assessment Model.[17] More precisely, a neo-classical model was used, on the basis of which economic effects were predicted. Against the background of individual reservations, the reform was to have a positive effect on both foreign direct investment and domestic investment decisions, to develop capital markets and, ultimately, to reflect gross domestic product. At the same time, pursuant to this report on the report done for USAID G4G project - the reform should have following results, namely:

- The reform has an investment incentive effect. Stock capital will increase by 3.23% in 1.5 years. The reform will lead to an increase in net investment. Economic agents are investing more than ever before;
- In about 1.5 years, real GDP will grow by 1.44%;
- Total private consumption will increase by about 0.85% in 1.5 years;
- The reform will increase the annual government budget deficit by a maximum of 3%. At the same time, an increase in income tax by 1% and an increase in value added tax by 1.25% will eliminate this deficit. In order to achieve a new budget balance, the government should consider not increasing spending within 2-3 years after the reform;

[17] PMC Research Centre, „Regulation Impact Assessment - Profit Distribution Model so called Estonian Model", 2016, pg. 5-19.

- The current account deficit will be slightly reduced as companies leave dividends in Georgia due to the investment effect of the reform;
- The result of the reform will become tangible in about 1.5 years.

The Gross Domestic Product development of Georgia in all items following the reform looks as follow:

Figure 9 - GDP Development Per Item

	2017	2018	2019	I 20*	II 20*	III 20*	IV 20*	2020*
GDP at current prices, billion GEL	40.8	44.6	49.3	11.1	11.1	13.3	13.9	49.4
GDP at constant 2015 prices, billion GEL	36.6	38.4	40.3	9.1	8.8	9.8	10.2	37.8
GDP real growth, percentage change	4.8	4.8	5.0	2.3	-13.2	-5.6	-6.8	-6.2
GDP deflator, percentage change	8.5	4.4	5.2	7.1	7.2	5.9	7.4	6.9
GDP per capita (at current prices), GEL	10 933.9	11 968.0	13 239.4	2 974.3	2 990.2	3 586.7	3 741.6	13 292.7
GDP per capita (at current prices), USD	4 358.5	4 722.0	4 696.2	1 016.3	952.9	1 156.2	1 144.1	4 274.6
GDP at current prices, billion USD	16.2	17.6	17.5	3.8	3.5	4.3	4.3	15.9

The authors of the study also consider the level of protection of democracy and property rights important, as these factors are important in assessing forecasting risks, although it should be noted that the Georgian economy is more resilient than Estonia in carrying out such reforms, such as labor rights, monetary freedom, ease of doing business, etc. With these figures, Estonia was significantly behind Georgia's current readiness for reform before implementing the profit tax reform.

Despite many positive developments, the implementation of the reform was characterized by certain risk factors, which meant that the period before the reform differed significantly between Georgia and Estonia, in particular, the tax burden and scale of withdrawing money from business was much lower than in 2000 in Estonia. Apart from this moment, unlike Estonia, Georgia was more dependent on budget revenues, one of the most important sources of which was the profit tax. The move by the government to offset one tax with another, namely postponing or canceling the profit period, a direct proportional increase in the excise tax rate has slowed down the expected and anticipated effects of the reform. As a result, one step forward was shortened by the step back by the other foot. Furthermore, we can conclude that the government has undertaken a significant tax reform, which should have been followed by a budget reform to change the size of government to GDP, which in other equal conditions would accelerate economic growth, as the tax and budget sectors are part of a single, fiscal policy.

Conclusion

As a summary, we can assess that the Georgian government has introduced a so-called profit tax. The implementation of the Estonian model has enabled the development of small and medium-sized businesses. As for the reform implemented in Estonia, the economic result obtained as a result of the reform there is remarkable, as the macroeconomic parameters have changed significantly in the long run. While the reform implemented in Georgia was related to many other factors and assumptions. The reform did not give the country an instant effect, even though it is still used as an image element for investors. However, reform in the medium and long term should determine the expectation of stable economic growth, here too it is fundamental to note economic growth in other equal conditions, as sudden shocks can fundamentally change supply-demand chains, which occurred in the Covid-19 era. It is very far from estimation and calculation. The steps taken by the country to increase the excise tax have been negatively assessed, while the reduction in revenue should have been offset by a reduction in administrative costs and a reduction in bureaucratic mechanisms. Which would have made government activities more flexible in some cases and interfering in the life of the community and business. At the same time, it is advisable that the expectations, assumptions and reservations are properly made and that stakeholders take all measures to maximize the results of the resources spent. Whereas the implementation of the reform is accompanied by both time and financial costs, and the right expectations have the opportunity to dispel the imagination, if there are no political signs in it. This is because expectations for reform for the government, business and society seem to have been exceeded.

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MODERN APPROACHES TO ENTREPRENEURIAL MARKETING.

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Abstract

The scientific article presents practical approaches to modern marketing in the commercial field. Market-oriented management focuses on the development of social marketing, therefore, the paper reflects the model of market-social activity evaluation mechanism. Of particular importance in this paper are the commodity, pricing, key and communication policy factors that influence the formation of consumer value. Developing a marketing excellence program in entrepreneurship involves combining the principles that marketers need to focus on in a competitive environment. Marketing competence ensures the formation of a customer-oriented communication-behavioral climate in the company. Entrepreneurial facility marketing management is based on the concept of modern marketing, which involves the formation of new market thinking, the development of communication links between the company and the market. Marketing management can be considered as a set of measures for the organization of production-key activities, based on market forecasting and research to maximize profits at the expense of meeting customer needs. Marketing management in business is related to the agreement between the company's capabilities and the requirements of the market environment to achieve the desired result. The article focuses on the principles that determine the effectiveness of marketing management - mutual benefit (ensuring financial sustainability and competitive advantage in the company's view) and strategic orientation, strategic orientation. Ensuring the ratio), demand individualization (activation of social network development mechanism - the role of personal marketing in the development of a market option adapted to individual individuals), marketing integration and benchmarking. With priorities, since the overriding of consumer interests and their advantages g Awareness ultimately leads to flexible market positioning and legitimacy - public recognition.

Keywords: Marketing Philosophy. Social Marketing. Research Hypothesis. Analytical segmentation. Market restructuring. "Marketing Perfection".

Introduction

The modern philosophy of marketing focuses on creating consumer and shareholder value. External orientation is of particular importance for success. The firm manages changes in the market space as a result of adaptive governance. The main asset of the firm is the buyer, who accordingly holds the market power. The focus of marketing decisions is to ensure the activity of profitable buyers. This circumstance consequently determines the distribution of resources by the company by consumer segments. Consumer impressions identified as a result of market research are transformed into a competitive advantage. In an integrated global economy, a reasonable goal is to proactively influence external change - in the implementation of information marketing, according to which change is associated with favorable opportunities. An individual understanding of the buyer is essential for the firm. It is the personalization of cognitive space that is the basic context of value selection.

1. Market-social activity model

The vision of social marketing obliges companies to be actively involved in the implementation of social events. This circumstance therefore indicates a close connection between the economic growth of the company and the growth of social potential. In such cooperation, the factors of development of organizational culture and social responsibility play the role of a buffer. Introducing the model of market-social activity evaluation mechanism, whose main focus is to assess the real capabilities of the company in the target market, taking into account the competitive realities.

1. Macroeconomic evaluation of market business - The influence of political-economic factors of the state on the investment climate and the development perspective of the company.

2. Ensuring market sustainability - Business market valuation determines clear orientations of financial strategies and financial attractiveness.

3. Analysis of the company's consumer potential.

4. Ensuring the development of socio-cultural responsibility.

5. Assessing the quality of customer service (providing external communication).

6. Determining the effect of participation in social activities.

7. Evaluate results and analyze effectiveness.

8. Control and regulation.

In modern conditions, based on market realities, it is advisable to consider the topics of anti-crisis organizational management: 1. Organizational audit and diagnostics - lack of control system, internal standardization of business processes, which leads to the annulment of the link between production and marketing, information chaos[1] and inefficient communication. 2. Anti-crisis measures - production and key control, simplification of organizational structure - focus on the optimal ratio of commodity and market structures. 3. Effectiveness of anti-crisis measures - reform of organizational culture in the direction of market adaptation, involvement of trade staff in the team, identification of effective business processes.

2. Research hypothesis

2.1 Identify consumer benefits

Is presented a research hypothesis related to the main questionnaire to be considered in the communication space:

- ✓ What do consumers think about their company and competitor products?
- ✓ In their opinion, what are the specific values offered by the company?
- ✓ Why do consumers resort to brand migration?
- ✓ Why do consumers maintain strong brand loyalty?
- ✓ How intensively do consumers consume this product?
- ✓ How do you prefer to buy?
- ✓ Who makes the decision in the buying process and how is the impact of the purchase reflected?

[1]N. Capon - Marketing Management. "Peter". 2010. (114).

2.2 Hierarchical marketing competence

Table. Levels of marketing management

Upper level	**Average level**	**Functional level**
Fulfilling the mission of the company. Develop company policies taking into account market realities. Formation of social-ethical marketing philosophy. Improving the preferential area of the target buyers. Choose a global product and market. Situational vision in market conditions.	Develop a marketing strategy. Develop marketing tactics. Creating a marketing information system - structuring information between export departments. Forming effective marketing communications with stakeholders.	The connection between production and marketing. Operational implementation of the marketing plan. Implementation of commodity-pricing program. Inventory Management. Sales staff respond to market changes. Develop production and delivery schedules.

2.3 Survey of competing companies

When it comes to market research, the following indicators are typical for certain types of companies in modern conditions

Leader	**A follower of leadership**	**Segmentist**
Intellectual property rights to the product	Development of existing goods and additional perfection	Analytical Segmentation - Identifying unique consumer needs
Research on the creation of new goods and the risk of creating an innovative product	Ability to differentiate goods	Study of unsatisfied needs
Market development financing	Intuitive understanding of the market	Modular market design

Competition environment research: 1. In terms of identification - the identity of competitors at the current stage and the identity of potential competitors in the future; 2. Regarding the description - what opportunities and problems do the competitors have; 3. In terms of valuation - which strategic alternatives do competitors have? 4. Regarding the forecast - what are the expectations from the actions of competitors in the short and long term; 5. Management - How to force a competitor to do what is best for the company.

3. Anti-crisis branding

An important attribute of effective market positioning is brand rationalization. When we talk about brand presentation, the following categories should be taken into account: 1. Sales (market share, consumer activity and profitability); 2. Brand image and identity (uniqueness, quality and comparative advantage); 3. Marketing support (advertising, distribution and price). The receipt of new goods by the buyer is conditioned by the following factors: Advantage - scaling of the offered benefit; The connection between past experiences and modern lifestyles; Reducing psychological and social risk.

I will also discuss anti-crisis branding content. First of all, we need to name the diagnostics, in particular, the reasons that prompted the emergence of a crisis situation in branding marketing: reducing market share and reducing consumer demand for the brand. We then move on to strategic correction, which in turn includes: transforming the firm's strategic map, marketing analysis of the brand portfolio for competitive positioning. Anti-crisis measures: competitive brand analysis, providing customer loyalty program, effective consumer and commodity marketing, resource optimization. Effect: Market stabilization, return on marketing investment in branding, customer satisfaction.

The turbulence of the market[2] environment primarily indicates the formation of targeted messages for the target audience. Consumer value is precisely ensured by the implementation of empowering and responsible marketing. When a company is in contact with an existing target group of buyers, its main market and communication goal is to maintain and build self-confidence - to ensure a long-term deal. The main focus of competitors' buyers is on recruiting them and offering them a comparative advantage over consumers. In relation to the target group of non-users, the focus is on the formation of consumer awareness and the identification of a new market position.

Table. Factors affecting the formation of consumer value

Commodity policy factors	**Key policy factors**	**Pricing policy factors**	**Communication policy factors**
Commodity innovation and commodity portfolio optimization.	Optimization of distribution channels.	Substantiation of social-commercial price.	Personalization of sales.
Commodity positioning in the market.	Expanding the customer base.	Ensuring a price reputation.	Consumer awareness.
Brand identity and exceptional advantage.	Order portfolio optimization and market restructuring.	Ensuring optimal logistics regime and targeted use of resources.	Ensuring market awareness.
Identify an advantage among brands within the company.			

[2] J. Lambin – market-driven management. "Peter". 2007. (145).

The firm builds loyalty to the brand at the expense of the following factors: choosing the right brand identity for the target market; The company, together with its business partners, creates the opportunity to create the right motivation to support brand identity; Brand correction.

4. Marketing Service

The marketing department should ensure the implementation of the following directions: providing senior management with recommendations for the acquisition of target markets, taking into account the competition and the real strength of the company; Consistent implementation of strategies to ensure commercial success; Formation of the optimal commodity assortment; Use the optimal mode of distribution marketing; Optimal order portfolio development; Consideration of consumer values in further refinement of organizational culture. The transformation and restructuring of the marketing service is conditioned by the following factors: development of a system of marketing goals and objectives; Analysis of marketing service creation criteria; Situational changes in the market environment. Restructuring collectively involves changes in information and organizational structures in order to successfully achieve a competitive advantage in the market. Creating an effective marketing service is based on the following principles: personal responsibility, corporate culture, demand-oriented, coordination of management decisions.

The marketing department should develop a rational audit scheme, according to which the following questions should be answered in separate directions:

1. Marketing environment - What changes are taking place in the focus of customers, competitors and supply companies? What political-legal tendencies affect the state of the field? How do these changes affect the results of the company's activities?

2. Market Goals and Market Strategy - How realistic are the goals set by the company's management and how clearly is the market strategy formulated? 3. Marketing Organization - How well are job responsibilities formulated?

4. Marketing system - how effective are the firm's marketing systems: processing of new goods, marketing research, quality of customer satisfaction, sales forecasting, creating an information base?

5. Marketing Productivity - How profitable is the chosen segment, how much additional marketing effort is needed to attract a new customer group? How should a firm redistribute resources between elements of the marketing mix?

6. Marketing - What does a firm's market offer look like? Does the marketing mix contribute to the implementation of the market strategy? How consistent is the marketing mix with the market strategy?

The effective operation of the marketing service is significantly conditioned by the organizational culture created in the company, which emphasizes the circumstance that the management should try as much as possible to promote the alignment of the founder and customer value orientation in the organization and minimize the differences between them. At the modern stage, the subculture of the marketer ensures the creation of a hybrid culture, during which the business and business values of the consumer are adapted. Market orientation ensures the integration of cultural values.

4.1 Innovative Marketing

In modern conditions, priority is given to the creation of demand, when the company itself helps the customer to identify new needs. First, the company determines the purpose of the project and executes

the project description. In this regard, it should study the opinion of consumers and transmit their views to specific domestic needs.

In this case the focus is on the optimal ratio between domestic productivity and external efficiency, therefore the company relies on its own opinion on potential customer value, it is obliged to take market responsibility. The company in the process of conducting innovative activities is jointly focused on the one hand, the customer and on the other hand, business processes. An important indicator of market creativity is corporate tolerance[3] for money and time.

The marketing team needs to be clear about who the customer is and which market segment should be involved. The success of creative marketing is largely driven by consumer enthusiasm. The team must assess in advance the market growth rate and the degree of market security.

The new approach to entrepreneurial activity focuses on the following changes:

1. Organization by consumer segment, rather than commodity units.
2. Delegate functions to outsourcing.
3. Search for new advantages, instead of maintaining the old market position.
4. Development of "human capital".
5. Branding using integrated marketing communications.
6. Development of "buyer's share".
7. Market integration.
8. Changes are associated with opportunities, rather than changes associated with the problem.
9. Proactive marketing.
10. Risk profile assessment.

The study of market situations is related to the following main problems:

1. The sales results do not meet the plan.
2. Sales representatives do not pay proper attention and do not make sufficient efforts to make effective sales.
3. The product does not meet the customer's preferences.
4. The company does not have enough information about customer behavior - customer profile information base.

Conclusion

"Marketing excellence" must ensure that the company escapes "lobbying competition". The collision with the "personal crisis" leads to the loss of a competitive position. Accordingly, the plan should aim to expand the trading base based on traditional advantages in different business units (marketing and financial strength). It is desirable for the company to set up a corporate strategic planning committee, which will include the heads of the departments of trade, insurance and real estate management. The Business Development Director is responsible for developing the business plan and implementing marketing strategies. The battle in the field of predominantly marketing rivalry is waged by "colorless

[3] J. Pearce – strategic management. “Peter”. 2013. (458).

captains" who do not pay special attention. The boss of many corporations is hiding between two philosophies - diversification and decentralization. Businesses require management responsibility to plan and execute a marketing program. Decentralization motivates the businessman to want to avoid additional risk. Managers are well aware of how to determine their own position in the company. If he can be fired because he did not achieve his marketing goals, it means that he is below the "release line". The marketing general must be able to build a strategy to suit the situation. Some managers start with an old strategy and then analyze the situation. The marketing general must weigh all the alternatives, listen to different opinions and then make a decision. The marketing general must possess an unlimited supply of thinking in order to resist a coercive approach from the supervisor and to follow an alternative concurring opinion. The marketing war is like a card game. It must be prepared to act promptly to reduce risk. At the same time, he must be able to accept "capitulation"[4] heroically.

In order to discuss the direction of the company's development, a research-evaluation process should be developed, which takes into account the issues of diversification of the field, profitability and the size of the company. The company has to work from the customer position. Therefore, "marketing excellence" is desirable to match the "organizational magic", which in turn is directly related to creating an effective communication climate. The market-oriented company pays special attention to the adaptive management style of management. The company's management focuses on long-term positioning and capitalizes on opportunities, and then invests money and time in achieving success in the target market. Rational use of publicity ensures the recruitment of users and the search for new opportunities. Therefore, the success of the company is based on conducting activities with consumer awareness, which makes a significant contribution to market leadership.

The program "Marketing Excellence" developed by the Marketing Service includes a marketing system and a staffing system. This program is the motivator for decision making to strengthen the market focus. The goal of the program is to introduce the benefits of marketing into the culture of the firm. The first step in implementing the program with a new marketing approach is to develop a marketing process that focuses on taking advantage of the company's brands and giving brand managers a new opportunity. The philosophical thinking of marketing in cludes the following areas: buyer orientation, creating brand value, and the combined strategic use of value and brand. Based on the above, a competitive advantage must be ensured. Ensuring marketing competence should be an important part of the Marketing Excellence program. Creating a solid infrastructure is important for the implementation of the program on a global scale. The purpose of creating a unique innovative program is to prepare a team of global level managers for a special workshop. The company is obliged to create a training site for sales representatives. This circumstance helps them to establish long-term relationships with buyers in a dynamic and competitive market. At the present stage, the company invests to stimulate economic growth and market coverage in developing countries. Its task is to increase the capacity of the distribution channel at the expense of developing new partnership opportunities. The distribution channels have only a power distribution conflict with the manufacturing company. A marketing program is a prerequisite for long-term effective positioning. In connection with the integration into the European market, the "open skies" strategy will be launched in the marketing program, which will give modern companies the opportunity to cover the market. The European market is considered a "safe area" for companies. Products must reach a new level of technological convergence and move beyond "ghetto boundaries".

In a competitive environment, the company places significant emphasis on strengthening its defensive position, which combines the following elements: Recruiting a customer from a competitor is much more difficult than attracting a person who has not yet made a choice; Given that the Achilles heel of

[4] A. Rice - Marketing Wars. "Peter". 2004. (57).

marketing can be considered a mismatch between production and marketing, it is therefore a priority to focus on the target group over time; As a result of the "friction force" mechanism, companies must attach importance to the strength of the competitor. Every company considers itself a leader, but the market realities say otherwise. The company should focus on positive thinking and persuasive information provision. The marketing general must anticipate the current situation. It is important for a leader to strengthen his market position and position himself in the buyer consciousness. It addresses the revival of the trademark line, the so-called Cannibalization strategy. "Forced reduction" is also effective. In this way the leading company protects the market share. Because the attack takes time, the leader feels the "force of friction" and is obliged to properly assess the potential of the opponent. For this, the leader applies the "game theory" method. In most cases, the leadership contender refrains from attacking. "Psychological pressure" is on the side of the leader in the war with advertising slogans. The leader is focused on financial conservatism. Due to "market dominance", the leader must always have sufficient financial resources to repel the attack.

The "marketing excellence" plan is largely related to building a "pyramid of influence", which implies the priority of the consumer audience, a clear market orientation and a long-term vision. Products that enjoy maximum popularity can lose the goodwill of buyers. This is why the company's marketers are constantly researching the marketing situation in the market so as not to overlook the open opportunity. It is important for the company to maintain momentum in building relationships with buyers and maintaining shareholder profits. Market-oriented management is a contributing factor to "free space".

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ADMINISTRATION / MANAGEMENT

EDUCATIONAL SYSTEMS HETEROGENEITY AND THE MODEL OF INTERNATIONAL COOPERATION IN THE FIELD OF HIGHER EDUCATION: EUROPEAN PERSPECTIVE

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Abstract

The present paper addresses the effectiveness of inter-regional and inter-governmental model of international cooperation in the field of higher education between European and Asian countries from the perspective of European educational system homogeneity. The critical argument pursued in the paper asserts that intra-regional homogeneity is key prerequisite for the inter-regional model of cooperation. By applying clustering algorithm, we prove that European countries feature four distinct educational systems, thus demonstrating a high degree of dissimilarity regarding educational system design. Consequently, we suggest that integration in the field of higher education between the European and Asian countries should take place between economies constituting these regions, not between the regional blocks.

Keywords: higher education, international cooperation, educational system, institutions, culture.

Introduction

The New Silk Road Project is a global infrastructure network that involves many cooperation areas: economics, international relations, security, business, management, sociology, education, etc. The New Silk Road (or One Belt One Road) project could potentially span and integrate major parts of the world across the Euro-Asian continents. International collaboration in the field of higher education is one of the principal pillars of the New Silk Road Project[1] (Kirby et al., 2018). The present paper aims to explore the possible implications of the New Silk Road for higher education and research cooperation between China and Europe by taking an interdisciplinary approach in collaboration with international partners. It would be argued that integration between the EU and Eastern and Central Asia in terms of education might be efficient, but only as long as the factors affecting the character of the educational system are considered. The study attempts to assess the potential success of international cooperation in higher education in Asian and European countries.

The taxonomy of international cooperation in the field of education can be extraordinarily complex. Nevertheless, it is possible to distinguish between three primary levels of international cooperation

[1] W. Kirby and M. van der Wende, "The New Silk Road: implications for higher education in China and the West? OUP accepted manuscript", "Cambridge Journal of Regions, Economy and Society", 2018.

in the field of higher education: inter-institutional[2], inter-governmental[3], and inter-regional[4] cooperation. The former takes the form of collaboration between universities located in different regions and countries. Inter-governmental cooperation in the field of higher education can be described as the process of educational systems unification across separated countries. Finally, inter-regional cooperation can be described as a collaboration between the groups of countries located in different geographic regions and characterized by a high degree of inter-regional heterogeneity and intra-region homogeneity. In other words, integration occurs between the blocks of countries featuring similar cultural values and institutional design. In the context of the present discussion, we analyze two potential forms of international cooperation in the field of higher education between Asian and European countries, namely, inter-governmental and inter-regional cooperation. The key argument pursued in the present paper states that efficient inter-regional collaboration in the field of higher education requires a sufficient degree of intra-regional homogeneity. Alternatively, the countries from the selected region should feature a similar educational system design. Otherwise, the inter-governmental model of cooperation is more effective, implying that international integration in the field of higher education should take place between the economies constituting the regions, not the entire regional blocks. We analyze the issue of regional homogeneity from the perspective of European countries using a clustering algorithm.

The paper is structured as follows. The first section provides a theoretical background for the research, discussing the institutional and cultural environment, the meaning of the educational system, links between institutional environment and educational system, and key institutional and cultural determinants of the educational system design. The second section is devoted to the comparative analysis of educational systems in the Asian and European regions. The third section presents empirical study methodology and results. The last section concludes.

1. Institutions, cultural environment and optimal educational system design

1.1. Institutions

Institutions can be defined as the scope of rules regulating the entire scope of social life aspects[5]. Under North's framework, the term "institutions" is general enough to involve "both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)"[6]. In other words, the institutional environment determines the way in which agents interact and cooperate, serving as the unified "rules of the game"[7]. The

[2] J.S. Antony and T. Nicola, in the book “Successful Global Collaborations in Higher Education Institutions” A. AI-Youbi et al. (Editors), The Tricky Terrain of Global University Partnerships, Springer, 2020.
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[6] D. North, "Institutions", 5(1) "The Journal of Economic Perspectives" p. 97.
[7] R.W. Scott and J.W. Meyer, in the book " The new institutionalism in organizational analysis" W.W. Powell and P.J. DiMaggio (Editors), The organization of societal sectors: Propositions and early evidence, The University of Chicago Press, 1991.

institutional environment is commonly believed to incorporate social norms and values, thus reflecting the character of the cultural environment[8]. Therefore, it is hard to draw a clear borderline between institutional and cultural environments. However, it would be argued that for the present study's purposes, the ability to distinguish between formal institutions and uncodified arrangements and communication patterns is not crucial. Therefore, in the further discussion, optimal education system design is discussed both from the perspective of explicitly formulated public policy and cultural norms, depending on the context.

1.2. Educational system

According to Kitiashvili[9], education means the purposeful acquisition of systemic knowledge, skills, and experience accumulated by humankind in various fields of study. Thus, education intends to develop physical, intellectual, and moral skills and is a unique and necessary form of interaction between society and culture. Education is achieved mainly through learning and teaching through an organized, diverse, and unified process of transferring and acquiring knowledge and skills. It would also be argued that the essence and definition of education systems are understood differently in all countries, and that is considered acceptable and healthy because these differences depend on the understanding of all the organs, characteristics, and purposes of education. Here and further, the term "educational system" describes the pattern in which the educational process is organized in a particular country employing formal regulations and as the result of informal social arrangements.

1.3. The links between institutions, culture, and education

Cultural differences, starting from the communication style – in speaking and listening – and to the whole attitude of students' behavior, greatly influence the educational system. The atmosphere and students' understanding of the educational institutions differ within Asian and EU countries, creating a big gap between these educational systems. It should be noted that this gap is healthy and has its historical roots and cross-cultural explanations. Starting from primary school, questions like whether it is polite or impolite to ask direct questions of others, whether appropriate or inappropriate to compete openly through talk, have different answers in different countries or, being more specific, cultures. Teachers play an essential role as managers and brokers of the micropolitics of conflict in the classroom[10]. It is transparent that teachers are members of society, so their inner understandings of their role differ from culture to culture, too.

Spillane and Burch[11] analyze the role of the institutional environment from the perspective of its interaction with instructions, referred to as the core of the teaching process. It should be admitted that the authors deny viewing the institutional environment in education as a unified and monolith construct. Instead, they argue that the institutional environment is differentiated across education

[8] A. Alesina and P. Giuliano, "Culture and Institutions", 53(4) "Journal of Economic Literature", 2015, p. 898–944.
[9] Z. Kitiashvili, "For the Definition of the Term Education System in Post Soviet Countries", 2(21), "International Journal of Multilingual Education", 2014, p. 71-76.
[10] F. Erickson, "Culture difference and science education", 18(2) "The Urban Review", 1986, p. 117–124.
[11] J.P. Spillan and P. Burch, in the book "The new institutionalism in education", The institutional environment and instructional practice: Changing patterns of guidance and control in public education, SUNY Press, 2006.

stages, reflecting the psychological needs and attitudes of students of different ages. However, it would not violate their logic to assume that although the institutional educational environment is differentiated within a particular society, its components still possess some common features, which can be assessed based on the cross-sectional analysis. Spillane and Burch[12] argue that the institutional environment, although not constantly shaping the "technical core" of education, determines the way in which knowledge is transmitted to students as well as the entire scope of routines accompanying this process.

To summarize the argument, institutional and cultural environments are argued to determine the character of the educational system, which can be broadly defined as the scope of regulations, norms, and values shaping the educational process. It would be argued, therefore, that successful international cooperation in the field of higher education would require a sufficient degree of cultural and institutional proximity; otherwise, it would be extremely challenging to define a uniform set of principles to govern the educational process.

1.4. Cultural and institutional determinants of the educational system design

1.4.1. Government spending

Developing the educational system is, in large part, a process of political area. Examples of Central Asian countries are provided here to show how different the situation looks like, considering the historical background. In the 1990s, in the absence of Soviet subsidies, Central Asian countries were forced to reduce the percentage of GDP allocated to education sharply – one of the research indicators explains why the same educational reforms and integrations cannot be equally effective and efficient. In Uzbekistan, this volume of government spending on education decreased by one-third in Tajikistan – four times[13]. Twenty-five years later, education spending in Kyrgyzstan (5.99% of GDP) and Tajikistan (5.23% of GDP) is still well below the minimum required threshold for countries with such a low GDP level[14].

In 2016, in more prosperous countries of the Central Asia region – Kazakhstan (2.98%) and Turkmenistan (3.05%) – this indicator remained below OECD (Organisation of Economic Co-operation and Development) standards[15]. Against this background, the countries have also decentralized their budgets from the national to the regional level. This, in turn, led to a significant reduction in funding for schools and universities, in some cases jeopardizing their existence. Budget cuts have also forced the authorities to prioritize higher and secondary education at the expense of lower levels, including preschool education. Between the 2000s and 2010s, less than a quarter of children in Central Asia had access to early childhood care and education, which could not but play

[12] J.P. Spillan and P. Burch, in the book "The new institutionalism in education", The institutional environment and instructional practice: Changing patterns of guidance and control in public education, SUNY Press, 2006.
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in the long term, affecting the number of people willing to go to higher education now in the 2020s. It is impossible not to mention that the quality of education also suffered – the average salary does not exceed 100 euros[16]. Teachers deal with students and their educational path and have to take on additional responsibilities: maintaining order, communicating with parents, etc. All this led to a flourishing corruption in their ranks and a drop in teacher's and student's levels of motivation[17] (Children and Youth Services, 2012). In the light of the evidence presented above, it would be argued that the government's role is essential in the case of educational regulations, serving as the determinant of the educational system design.

1.4.2. Brain drain / Outflow of qualified specialist

The states of the Central Asian regions face political and socioeconomic realities that affect their education systems. The economies of the countries depend on remittances from abroad by labor migrants. High levels of migration among parents negatively affect the school attendance of their children left behind, especially for less-educated families[18]. The lack of students at the university may lead to the government's decision to reduce the spending and to close it, increasing the unemployment or making teachers and management of universities look for other jobs, decreasing the level of qualified staff in the educational branch. For some people from Central Europe or East Asia, it may sound irrational and meaningless, and this is the point where the cultural environment comes into play, too.

The migration process is a part of globalization, but for those families and persons that come with higher levels of educational and professional qualifications, the possibility of transferring their formal qualifications may be difficult since this form of institutionalized cultural capital is often not recognized in the new society and thus devalued as well[19]. All of this puts migrant families and their offspring in a challenging position in the societal competition. Those, however, who immigrate with a high level of education, integrate faster. At the same time, Central Asian migrants who go to European countries to work for higher salaries and living standards quite often cannot continue doing the exact job they were doing in the home country. A teacher from Kazachstan cannot continue teaching in Germany because of the language barrier or the lack of the required education. In that way, there is an irrational waste of the potential for both countries, Kazachstan and Germany.

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1.4.3. Unequal access to education

Limitation of access to education of children with disabilities has special significance. Children with physical disabilities do not have technical conditions for attending ordinary secondary schools, including lack of special access for persons using wheelchairs, lack of special facilities, etc. As a result, a child may suffer from a lack of regular access to education, communication, and development. Unequal access to education is more common in Central Asian countries than in the EU, creating another social-cultural difference that influences the educational system. In the EU, every student has access to education. The majority of the universities have the facilities to provide every student with the education, considering all the students' features, thinking about their comfortable stay at the university, and providing them with the required needs.

1.4.4. Gender inequality

Women today have greater access to higher education and degree-granting institutions than at any other point in history. However, it is still not that common in some countries taken for the analysis of this paper. Gender inequality is a cultural factor that influences the educational system. In some countries of Central Asia, especially ones with the Muslim religion, it is a low prestige among girls to get an education instead of getting married. Another reason is a crusted understanding of gender roles in society, and this understanding has its roots in school education caused by the stable stereotype. According to Olson-Strom and Rao[20], for some women from more conservative societies in Asia, the idea of the university is an escape from a restrictive family environment or an unwanted marriage. Many families and communities also prefer gender-segregated education, limiting the options female students have available to them. Moreover, women-only schools and universities often receive less funding and resources than their all-male or co-ed counterparts. This is one way to allocate limited resources, the influence of traditional gender norms, and location interact to prevent women's attainment of higher education[21].

2. The comparative analysis of Asian and European educational systems

2.1. East Asian educational system

The educational system of Asian countries consists of two essential pillars: collectivism and strict discipline. The leaders of Asian education are Japan, China, Singapore, and South Korea[22]. In these countries, under the age of 5, children are allowed to behave practically the way they naturally want, having complete freedom. However, after reaching the age of five, a strict framework is set for pupils, and a period of rigid discipline, overcoming obstacles, and complex study begins. The educational process is based on diligence, organization, perseverance, and concentration of the student. In turn, the student's abilities and interests are not considered in the same way as in the

[20] S. Olson-Strom and N. Rao, in the book "Diversity and Inclusion in Global Higher Education" C. Sanger and N. Gleason (Editors), Higher Education for Women in Asia, Palgrave Macmillan, 2020.
[21] S. Olson-Strom and N. Rao, in the book "Diversity and Inclusion in Global Higher Education" C. Sanger and N. Gleason (Editors), Higher Education for Women in Asia, Palgrave Macmillan, 2020.
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European education system. It is believed that only with the help of the listed qualities can one achieve the peak of success, get a good education, and in the future, a profession. A philosophy that seems strange for the European education system is considered a norm in Asia. However, this strict disciplinary approach is not the same within the whole continent. There are essential differences between the secondary education system and the whole approach. For example, a teacher's authority in Eastern Asia is indisputable; parents do not blame him for their child's failures. Schoolchildren spend most of their time in the classroom, and when it comes to high school, this figure can reach up to 10 hours a day. In Central Asian countries, on the contrary, it is closer to the East European and post-soviet educational approach – teachers have direct communication with the parents, discussing the successes and the mistakes of the children, and the amount spent in school is much lower – 6-7 classes each for 45 minutes, so no more than 6 hours. In Central Asia, it is considered a norm to ask teachers about children's homework until they become students. Furthermore, after ex-school students enter a university, parents still contact the institutions to participate in children's academic lives[23].

Another example is summer vacations – the time students are free from classes – in China are completely limited to one month, while in EU and Central Asian countries, it is up to two or even three months. The dividing of the academic year is different, too – in Japan, the school year is divided into three parts, each of which finishes with the exams students hardly prepare for. In Central Asian countries, the remains of the Soviet educational system prevail – students have two semesters at school, each of which ends up with the final exams. Also, in the countries of East Asia, the school is 12 classes, the same with Europe, while the countries of Central Asia have just 11 classes. The next part of the article includes more about the educational system in Central Asian countries[24].

2.2. Central Asian educational system

According to the 37th briefing of EUCAM (Europe – Central Asia Monitoring) from September 2019[25], the situation in the educational systems of the Central Asian countries began to deteriorate with the decay of the USSR. In all five countries of the region, to varying degrees, there is a lack of high-quality, effective education. Pervasive corruption and good governance, cultural differences in the mentality that have formed over the years, have contributed to widening the gap between employers' needs and student training. Labour market needs in Central Asia evolved over the past years, and higher education institutions have not always had the necessary resources to adapt curricula at the same pace[26]. All this impedes human development and long-term economic stability.

Funding has become one of the most severe challenges for the newly independent republics. For instance, due to the destruction of the previous system, the education system's resources were

[23] D. McInerney and O. Tan, "What the West Can Learn from the East: Asian Perspectives on the Psychology of Learning and Motivation", Information Age Publishing, 2008.
[24] K. Wilk, "The best educational systems in the world on example of European and Asian countries", 8(3) "Holistica", 2017, p. 103-115.
[25] C. Hill and R. Fernandez-Chung, "Higher Education in the Asian Century: The European legacy and the future of Transnational Education in the ASEAN region (Asia-Europe Education Dialogue) ", Routledge, 2016.
[26] G. Postiglione, "International Cooperation in East Asian Higher Education", Springer, 2020.

significantly reduced: the salaries of teachers at schools and universities fell sharply, and teaching materials were not updated. In these conditions, almost all Central Asian countries started creating private schools and universities, where tuition fees were encouraged or even obligatory in most cases. Simultaneously, a lack of formal division into commercial and non-commercial educational institutions ultimately led to the spread of corruption in education systems that is a standard procedure there till now[27].

Taking into consideration the approach to students in Central Asian countries, where a teacher has a strict authority, but where parents and children are in open communication, discussing the mode of studies, question the grades and the assessments, it should be noted that cuts in funding led to the closing of schools and institutions, leaving a teacher with classes of 20-40 students, which led to the reduction in efficiency and motivation of teachers who get a little salary and are responsible for a big amount of classes.

2.3. European educational system

European educational systems have two main characteristics: individuality and independence. In European countries, a child is treated as a person who can choose activities and interests. Of course, such upbringing principles prevail not in all European countries, but these principles are cultivated in the EU countries. Therefore, parents do not impose things on children and try to make the entire learning process pleasant for them, in opposition to the Asian educational environment. Also, it should be mentioned that the countries of Central Asia, like Eastern Europe, adopted the theory of upbringing inherent in the USSR, which is also different from what is observed in East Asia and Central Europe. Students are not required to produce outstanding results since this can lead to overload and trauma to the child's psyche – it is interesting to note that in China, all of the above are used in order to temper and educate. In Europe, both parents and teachers strive to support the children and help them overcome the difficulties that have arisen, encouraging emotional openness[28].

The European education system provides for the development of critical competencies that have a more-than-subject nature. They are a combination of different attitudes, beliefs, and skills that fit a specific context. Core competencies contribute to self-realization, overall personality development, and the formation of active citizenship. In European schools, teachers, in addition to teaching, stake on the education of the student. Thus, the concept of "education" includes preparation not only in scientific terms but also helping the student to develop the abilities of oratory, speaking, working with information, and working in a team. Great attention is also paid to art in a global understanding and knowledge that can broaden student's minds like, for example, art[29].

[27] D. Rakhmonov and N. Jumaev, "Education in Central Asia", Springer, 2020.
[28] L. Deca, A. Curaj and R. Pricopie, "European Higher Education Area: Challenges for a New Decade", Springer, 2020.
[29] S. Cifuentes and L. Monsalve Lorente, “Comparative study between the educational systems of Spain, UK, France and Germany”, “Proceedings of EDULEARN15 Conference 6th-8th July 2015”, Barcelona, Spain.

For instance, in Poland, at the Warsaw School of Economics in Warsaw, at the Faculty of Global Business, Finance and Governance, the student can choose to learn subjects such as Review of American Movies, Social Psychology, Philosophy, Geography and other subjects for general outlook and development. Even in applied science faculties, the student must acquire writing, working with people, communication, and presentation skills.

Also, starting from the middle grades in the European education system, students can independently determine their study plans based on their interests. Universities in various fields offer the development of various research projects on topics of interest to students. Such an approach to learning allows students to develop independence, analytical skills, and a critical habit of mind. In European educational institutions, mechanical memorization of the material is not approved or recommended – many exams are held in the format of the open exams, where it is more important for students to explain in detail how they understand the material than memorizing chapters from textbooks, even in subjects such as economics and finance. During classes, often arise, where everyone can express their opinion, even if it does not coincide with the opinion of classmates. Such lessons are aimed at ensuring that even not completely self-confident students get involved in the process and cultivate leadership and managerial qualities that will be useful in the labor market experience and any interview – even when setting up in a financial institution, where the task of the future employee will be to keep reports. Initiative and entrepreneurial spirit are important personal qualities that are trained in universities. Teachers, as a rule, do not require strict military discipline, but, on the contrary, share their knowledge with students, although, of course, discipline is essential and adherence to rules, especially ethical ones. The form of teaching in the EU is very unobstructed: teachers can communicate with students holding their feet on the table, treating students as colleagues, while fully maintaining subordination and respecting their students. Such a way of interaction may surprise Asian students who come to exchange universities in Europe.

Thus, the main differences between the Asian and European education systems are collectivism in the first place and an individual approach in the second. As a result, it can be assumed that graduates of Eastern Asian institutions are obedient, depending on the collective's opinion, and showing their concern. However, at the same time, it might be difficult for them to join new teams and adapt to constantly changing conditions. Authors' empirical observation suggests that exchange students from Asia to Warsaw universities tend to stick together with their associates, while European exchange students tend to make acquaintances with foreigners – even if they speak a different language. Central Asian educational system still has its roots from the post-soviet educational system that usually was of high standards and discipline, but when stopped being controlled are highly affected by the financial funding and adaptation to the new educational programs. Some programs help Central Asian countries develop education, but it is still significantly affected by the cultural issues discussed in the last part of the paper. At the same time, European graduates are less attached to their compatriots, change their place of residence and work efficiently, have the knowledge that is required at the moment, and which each of them determines and chooses for himself.

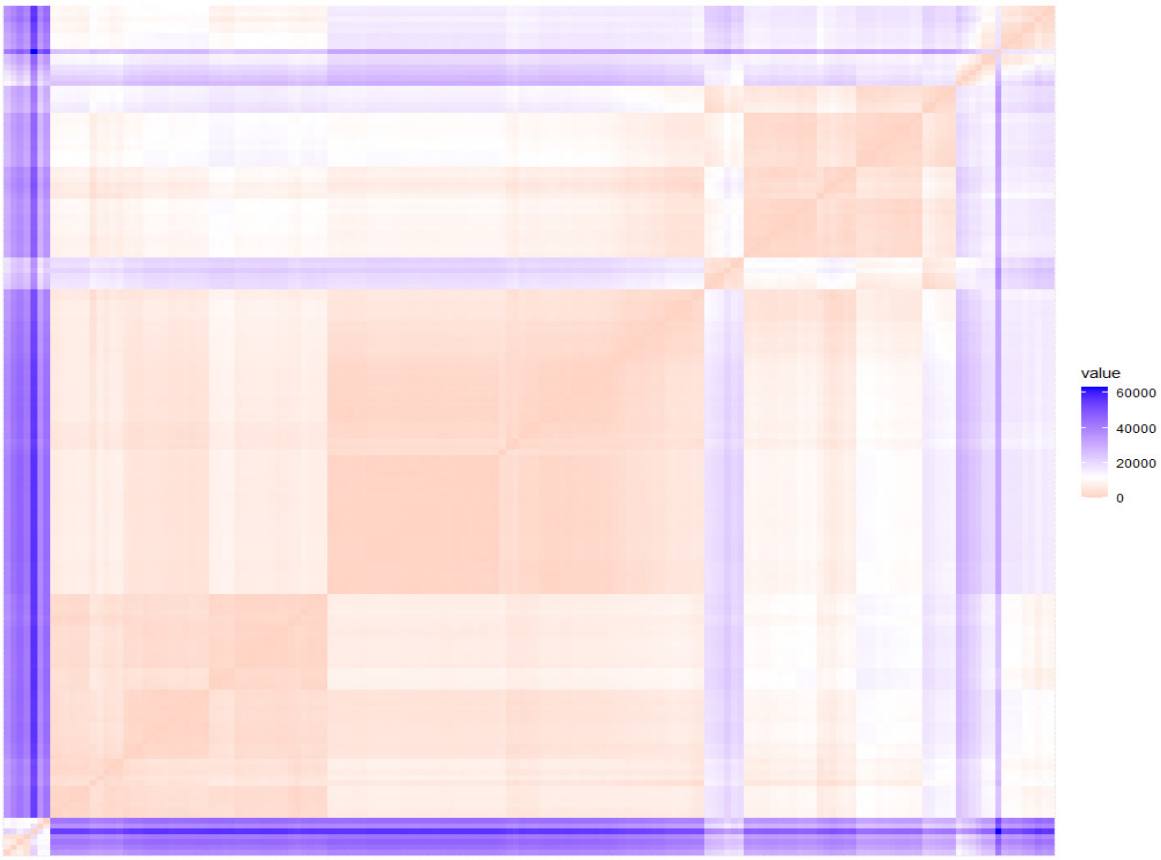
3. Empirical study methodology and results

3.1. Data and data processing

The main argument pursued in the present paper is that international cooperation in the field of higher education requires a sufficient degree of institutional and cultural proximity. In order to assess the degree of aforementioned proximity between European and Asian countries, we use clustering analysis. The initial dataset included all the countries located in Europe analyzed for the period of 1992-2019. However, the final version of the dataset included 158 observations in the unbalanced panel due to the data availability constraint. Twenty-two indicators describing different dimensions of the institutional and cultural environment related to education were included in the dataset (see the full list in Appendix 1; the data was assessed from the World Bank Education database).

The initial step of the clustering procedure is to define whether the data are clusterable. There are several commonly used techniques to test clusterability. First, we calculate Hopkins statistics to test the dataset against random distribution. Hopkins statistics yields a value slightly below 0.5 (0.47), indicating that the dataset is not clusterable. Nevertheless, the heatmap (see Figure 1) suggests at least three distinguishable clusters.

Figure 1. Visual assessment of clustering tendency



As Adolfsson et al.[30] (2018) point out, Hopkins statistics is not reliable for detecting clustering tendency in highly-dimensional data. Therefore, we use Hartigan's Dip uni-modality test in order to detect whether Euclidean distances represent a uni-modal or multi-modal distribution. Zero hypotheses of Hartigan's Dip uni-modality test states that data are unimodal, while the alternative hypothesis suggests that data are multi-model (i.e., bi-modal, at least). The p-value of Hartigan's Dip uni-modality test is below 0.01, indicating that Euclidean distances are not uni-modal. Therefore, we can apply the k-means clustering procedure.

In the next step, we standardize the variables and detect the optimal number of clusters using the Elbow rule by analyzing the distribution of the total within sum of squares depending on the number of clusters (see Figure 2). Since the "elbow" of the function corresponds to the third cluster, the optimal number of clusters is four. Therefore, during the k-means clustering procedure, we specify four clusters (the output is presented in Figure 3).

Figure 2. Detecting the optimal number of clusters using the Elbow method

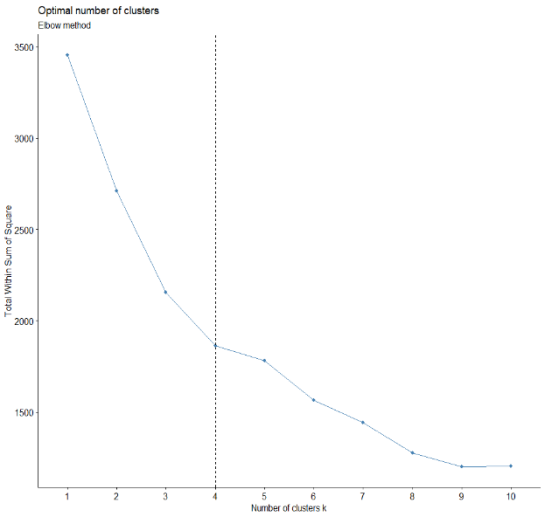
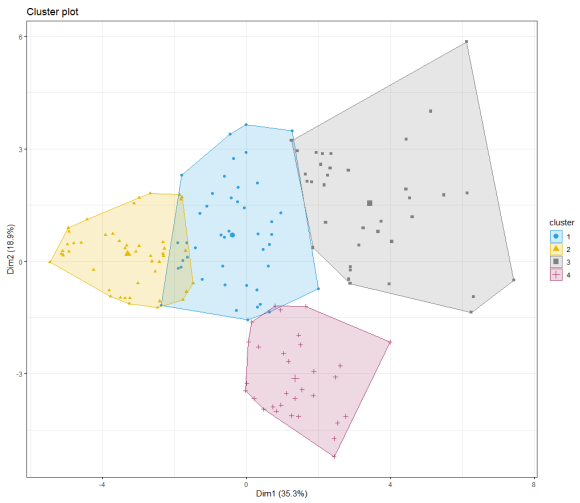


Figure 3. Visualization of clusters

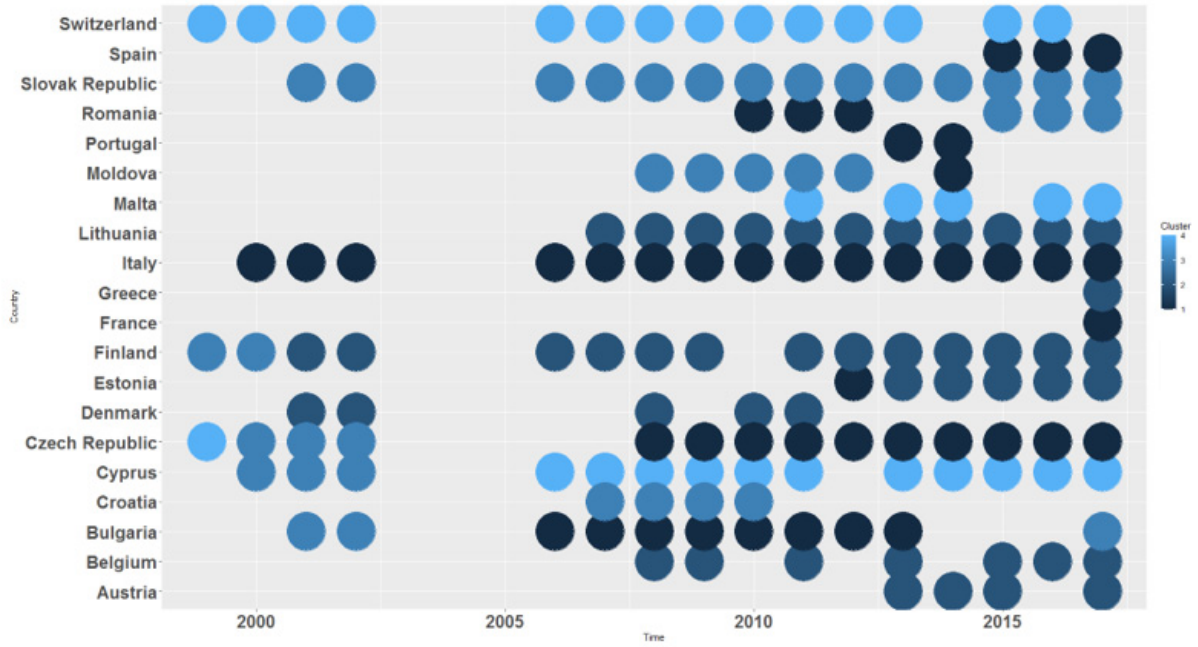


3.2. Results and discussion

Figure 4 presents the distribution of the countries across clusters. The first exciting thing to notice is that some countries feature a high degree of consistency over time, while others transfer to different clusters, which, perhaps, reflects essential changes in the field of educational system design.

[30] A. Adolfsson, A. Ackerman, N.C. and Brownstein, "To Cluster, or Not to Cluster: An Analysis of Clusterability Methods", 2018, available here: https://arxiv.org/pdf/1808.08317.pdf [l.s. 26.04.2021].

Figure 4. Distribution of countries across clusters



For instance, Switzerland and Malta belong to the fourth cluster during the entire period of analysis. Analogously, Spain, Portugal, and Italy consistently belong to the first cluster. Lithuania, Belgium, and Austria are in the third cluster for the entire period, and the rest of the countries are located in different clusters depending on the year.

The key conclusion that can be derived from the analysis presented above is that European countries are heterogeneous concerning the educational system design. In fact, the uniform European model of education does not exist; instead, there are four different models. In line with the assertion adopted, such heterogeneity implies that the model of inter-regional cooperation between European and Asian countries would be less efficient compared to inter-governmental cooperation. In other words, cooperation on the country level is considered to be a more appropriate solution.

Conclusions

The present study was devoted to discussing the optimal model of international cooperation in the field of higher education between European and Asian economies. Two models of such cooperation were considered: inter-regional and inter-governmental models. According to the main argument pursued throughout the discussion, inter-regional cooperation can only be effective, if the countries constituting the region demonstrate a sufficient level of homogeneity with respect to educational system design. Otherwise, the countries do not constitute a uniform regional block, thus diminishing the chances for inter-regional collaboration success. In such a case, inter-governmental cooperation, i.e., cooperation

between economies constituting the regions, would be argued a more appropriate model. The paper analyzed the problem of international cooperation from the European perspective, attempting to determine whether a uniform European educational system exists. Twenty-two variables standing for the various dimensions of cultural and institutional environment relevant to the educational system design were included in the dataset. It was found out that Euclidean distances between the countries are not unimodal, implying set clusterability. Therefore, it was concluded that European states feature four different educational systems; in fact, there is no uniform European model of education. Consequently, in line with the key argument, we conclude that inter-governmental cooperation in higher education between European and Asian countries would be more efficient compared to the inter-regional model.

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Appendix 1. List of indicators

Code	Indicator Name	Short definition	Source
UIS.XGDP.56.FSGOV	Government expenditure on tertiary education as % of GDP (%)	Total general (local, regional and central) government expenditure on tertiary education (current, capital, and transfers), expressed as a percentage of GDP. It includes expenditure funded by transfers from international sources to government. Divide total government expenditure for a given level of education (ex. primary, secondary, or all levels combined) by the GDP, and multiply by 100. A higher percentage of GDP spent on education shows a higher government priority for education, but also a higher capacity of the government to raise revenues for public spending, in relation to the size of the country's economy. When interpreting this indicator however, one should keep in mind in some countries, the private sector and/or households may fund a higher proportion of total funding for education, thus making government expenditure appear lower than in other countries. Limitations: In some instances data on total public expenditure on education refers only to the Ministry of Education, excluding other ministries which may also spend a part of their budget on educational activities. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.X.USCONST.5T8.FSGOV	Government expenditure on tertiary education, constant US$ (millions)	Total general (local, regional and central) government expenditure on tertiary education (current, capital, and transfers) in millions US$ in constant value (taking into account inflation). It includes expenditure funded by transfers from international sources to government. Total government expenditure for a given level of education (e.g. primary, secondary, or all levels combined) in national currency is converted to US$, and where it is expressed in constant value, uses a GDP deflator to account for inflation. The constant prices base year is normally three years before the year of the data release. For example, in the July 2017 data release, constant US$ values are expressed in 2014 prices. Limitations: In some instances data on total government expenditure on education refers only to the Ministry of Education, excluding other ministries which may also spend a part of their budget on educational activities. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.XUNIT.GDPCAP.5T8.FSHH	Initial household funding per tertiary student as a percentage of GDP per capita	Total payments of households (pupils, students and their families) for educational institutions (such as for tuition fees, exam and registration fees, contribution to Parent-Teacher associations or other school funds, and fees for canteen, boarding and transport) and purchases outside of educational institutions (such as for uniforms, textbooks, teaching materials, or private classes). 'Initial funding' means that government transfers to households, such as scholarships and other financial aid for education, are subtracted from what is spent by households. Note that in some countries for some education levels, the value of this indicator may be 0, since on average households may be receiving as much, or more, in financial aid from the government than what they are spending on education. Calculation: Total payments of households (pupils, students and their families) for educational institutions (such as for tuition fees, exam and registration fees, contribution to Parent-Teacher associations or other school funds, and fees for canteen, boarding and transport), plus purchases outside of educational institutions (such as for uniforms, textbooks, teaching materials, or private classes), minus	UNESCO Institute for Statistics

		government education transfers to households (such as scholarships or other education-specific financial aid). When expressed as a share of GDP, this is then divided by the country's Gross Domestic Product (GDP). Limitations: Indicators for household expenditure on education should be interpreted with caution since data comes from household surveys which may not all follow the same definitions and concepts. These types of surveys are also not carried out in all countries with regularity, and for some categories (such as pupils in pre-primary education), the sample sizes may be low. In some cases where data on government transfers to households (scholarships and other financial aid) was not available, they could not be subtracted from amounts paid by households. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	
UIS.XUNIT.PPPCONST.5T8.FSHH	Initial household funding per tertiary student, constant PPP$	Total payments of households (pupils, students and their families) for educational institutions (such as for tuition fees, exam and registration fees, contribution to Parent-Teacher associations or other school funds, and fees for canteen, boarding and transport) and purchases outside of educational institutions (such as for uniforms, textbooks, teaching materials, or private classes). 'Initial funding' means that government transfers to households, such as scholarships and other financial aid for education, are subtracted from what is spent by households. Note that in some countries for some education levels, the value of this indicator may be 0, since on average households may be receiving as much, or more, in financial aid from the government than what they are spending on education. Calculation: Total payments of households (pupils, students and their families) for educational institutions (such as for tuition fees, exam and registration fees, contribution to Parent-Teacher associations or other school funds, and fees for canteen, boarding and transport), plus purchases outside of educational institutions (such as for uniforms, textbooks, teaching materials, or private classes), minus government education transfers to households (such as scholarships or other education-specific financial aid). Limitations: Indicators for household expenditure on education should be interpreted with caution since data comes from household surveys which may not all follow the same definitions and concepts. These types of surveys are also not carried out in all countries with regularity, and for some categories (such as pupils in pre-primary education), the sample sizes may be low. In some cases where data on government transfers to households (scholarships and other financial aid) was not available, they could not be subtracted from amounts paid by households. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.XSPEND.P.56.FDPUB.FNNTS	Non-teaching staff compensation as a percentage of total expenditure in tertiary public institutions (%)	Non-teacher (e. g. school directors, support staff, administrative staff in local or central Ministries) compensation expressed as a percentage of direct expenditure in public educational institutions (instructional and non-instructional) of the specified level of education. Financial aid to students and other transfers are excluded from direct expenditure. Staff compensation includes salaries, contributions by employers for staff retirement programmes, and other allowances and benefits. To calculate the indicator, divide non-teacher compensation in public institutions of a given level of education (ex. primary, secondary, or all levels combined) by total expenditure (current and capital) in public institutions of the same level of education, and multiply by 100. Limitations: Although countries responding to the UIS questionnaire on educational expenditure are required to follow common definitions for staff compensation, in some cases government budget classifications may differ. It	UNESCO Institute for Statistics

		is also often difficult to separate staff compensation between teachers and non-teachers, as these are usually grouped together in country's accounting systems. In general, respondent countries must use estimation methods to separate teacher and non-teacher staff compensation. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	
UIS.OFST.AGM1.CP	Out-of-school children, one year younger than official primary entry age, both sexes (number)	Number of children one year before primary entry age who are not enrolled or attending pre-primary education during in a given academic year. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.OFST.AGM1.F.CP	Out-of-school children, one year younger than official primary entry age, female (number)	Number of children one year before primary entry age who are not enrolled or attending pre-primary education during in a given academic year. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.OFST.AGM1.M.CP	Out-of-school children, one year younger than official primary entry age, male (number)	Number of children one year before primary entry age who are not enrolled or attending pre-primary education during in a given academic year. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.ROFST.AGM1.GPIA.CP	Out-of-school rate for children one year younger than official age, adjusted gender parity index (GPIA)	The Adjusted Gender Parity Index (GPIA) is calculated by dividing the female value for the indicator by the male value for the indicator. If the resulting value exceeds 1, the ratio is inverted and subtracted from 2. The adjusted gender parity index is symmetrical around 1 and lies in the range 0-2. An adjusted GPI equal to 1 indicates parity between females and males. In general, a value less than 1 indicates disparity in favor of males and a value greater than 1 indicates disparity in favor of females. For more information, consult the UNESCO Institute for Statistics: http://uis.unesco.org/	UNESCO Institute for Statistics
UIS.ROFST.AGM1.CP	Out-of-school rate for children one year younger than official primary entrance age, both sexes (%)	Proportion of children in the official age range for one year before primary education who are not enrolled in pre-primary education. To calculate the indicator, the number of students of the official age for one year before primary education enrolled in pre-primary education is subtracted from the total population for one year before primary education. The result is expressed as a percentage of the population of the official age for the year before primary education. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.ROFST.AGM1.F.CP	Out-of-school rate for children one year younger than official primary entrance age, female (%)	Proportion of children in the official age range for one year before primary education who are not enrolled in pre-primary education. To calculate the indicator, the number of students of the official age for one year before primary education enrolled in pre-primary education is subtracted from the total population for one year before primary education. The result is expressed as a percentage of the population of the official age for the year before primary education. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics

UIS.ROFST.AGM1.M.CP	Out-of-school rate for children one year younger than official primary entrance age, male (%)	Proportion of children in the official age range for one year before primary education who are not enrolled in pre-primary education. To calculate the indicator, the number of students of the official age for one year before primary education enrolled in pre-primary education is subtracted from the total population for one year before primary education. The result is expressed as a percentage of the population of the official age for the year before primary education. For more information, consult the UNESCO Institute of Statistics website: http://www.uis.unesco.org/Education/	UNESCO Institute for Statistics
UIS.SLE.02	School life expectancy, pre-primary, both sexes (years)	Number of years a person of school entrance age can expect to spend within the specified level of education. For a child of a certain age a, the school life expectancy is calculated as the sum of the age specific enrolment rates for the levels of education specified. The part of the enrolment that is not distributed by age is divided by the school-age population for the level of education they are enrolled in, and multiplied by the duration of that level of education. The result is then added to the sum of the age-specific enrolment rates. A relatively high SLE indicates greater probability for children to spend more years in education and higher overall retention within the education system. It must be noted that the expected number of years does not necessarily coincide with the expected number of grades of education completed, because of repetition. Since school life expectancy is an average based on participation in different levels of education, the expected number of years of schooling may be pulled down by the magnitude of children who never go to school. Those children who are in school may benefit from many more years of education than the average.	UNESCO Institute for Statistics
UIS.SLE.02. F	School life expectancy, pre-primary, female (years)	Number of years a person of school entrance age can expect to spend within the specified level of education. For a child of a certain age a, the school life expectancy is calculated as the sum of the age specific enrolment rates for the levels of education specified. The part of the enrolment that is not distributed by age is divided by the school-age population for the level of education they are enrolled in, and multiplied by the duration of that level of education. The result is then added to the sum of the age-specific enrolment rates. A relatively high SLE indicates greater probability for children to spend more years in education and higher overall retention within the education system. It must be noted that the expected number of years does not necessarily coincide with the expected number of grades of education completed, because of repetition. Since school life expectancy is an average based on participation in different levels of education, the expected number of years of schooling may be pulled down by the magnitude of children who never go to school. Those children who are in school may benefit from many more years of education than the average.	UNESCO Institute for Statistics
UIS.SLE.02.GPI	School life expectancy, pre-primary, gender parity index (GPI)	Ratio of female school life expectancy to the male school life expectancy. It is calculated by dividing the female value for the indicator by the male value for the indicator. A GPI equal to 1 indicates parity between females and males. In general, a value less than 1 indicates disparity in favor of males and a value greater than 1 indicates disparity in favor of females.	UNESCO Institute for Statistics
UIS.SLE.02.M	School life expectancy, pre-primary, male (years)	Number of years a person of school entrance age can expect to spend within the specified level of education. For a child of a certain age a, the school life expectancy is calculated as the sum of the age specific enrolment rates for the levels of education specified. The part of the enrolment that is not distributed by age is divided by the school-age population for the level of education they are enrolled in, and multiplied by the duration of that level of education. The	UNESCO Institute for Statistics

		result is then added to the sum of the age-specific enrolment rates. A relatively high SLE indicates greater probability for children to spend more years in education and higher overall retention within the education system. It must be noted that the expected number of years does not necessarily coincide with the expected number of grades of education completed, because of repetition. Since school life expectancy is an average based on participation in different levels of education, the expected number of years of schooling may be pulled down by the magnitude of children who never go to school. Those children who are in school may benefit from many more years of education than the average.	
SE.SCH.LIFE	School life expectancy, primary to tertiary, both sexes (years)		UNESCO Institute for Statistics
SE.SCH.LIFE.FE	School life expectancy, primary to tertiary, female (years)		UNESCO Institute for Statistics
UIS.SLE.1t6.GPI	School life expectancy, primary to tertiary, gender parity index (GPI)		UNESCO Institute for Statistics
SE.SCH.LIFE.MA	School life expectancy, primary to tertiary, male (years)		UNESCO Institute for Statistics
UIS.SLE.56	School life expectancy, tertiary, both sexes (years)		UNESCO Institute for Statistics
UIS.SLE.56.F	School life expectancy, tertiary, female (years)		UNESCO Institute for Statistics
UIS.SLE.56.GPI	School life expectancy, tertiary, gender parity index (GPI)		UNESCO Institute for Statistics
UIS.SLE.56.M	School life expectancy, tertiary, male (years)		UNESCO Institute for Statistics

AGENCIFICATION IN THE EDUCATION SECTOR OF GEORGIA

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Abstract

Agencification has been a recent trend on the agenda of public administration reforms in a number of countries. The concept of Agencification implies the rearrangement of the relation between the central government and the agencies as a result of delegation of tasks. Agencification process has been mostly driven by international organizations such as the OECD, IMF and the World Bank with the aim to introduce a "business-like" efficiency-oriented model in public sector in order to improve the performance and to raise the accountability. The following study explores the Agencification processes in the education sector of Georgia. Six agencies operating under the aegis of Ministry of Education and Science of Georgia have been examined. The empirical study shows that the relationship between the Ministry and the studied agencies goes beyond the classical model of principal-agent relationship and is based more on collaboration and cooperation principles. Shortcomings regarding the legal framework, old-fashioned performance measurement and performance management methods, constant reforms and structural changes put challenge to Agencification process. Furthermore, in the context of Georgia, there is no evidence that external actors – international organizations had an impact on the Agencification process in this very specific policy field. It was more an internal decision.

Keywords: Agencification, LEPLs, Education sector, principal-agent theory, legal framework.

Introduction

"One persistent theme in public administration is whether a government portfolio should be organized as an integrated ministry or as a dual organization composed of a ministerial department and one or several semidetached agencies."[1]

"Since the 1980s there has been an explosion of interest in the agency model in many countries, driven largely by the pressures to restrain spending and make service to citizens more responsive."[2]

"Agencification" has been high on the agenda of administrative policy makers for two decades and attracted considerable scholarly attention.[3]

The concept of Agencification implies the rearrangement of the relation between the central government and the agencies as a result of delegation of tasks. Agencification process has been mostly driven by international organizations such as the OECD, IMF and the World Bank with the aim to introduce a "business-like" efficiency-oriented model in public sector in order to improve the performance and to raise the accountability.

[1] J. Trondal, M. Egeberg, Agencification. ISL Working Paper No 4, 2013, p.2.
[2] SIGMA. Financial Management and Control of Public Agencies. SIGMA Paper No. 32. Paris: CCNM/SIGMA/PUMA 2001,4 p.8.
[3] J. Trondal, Agencification. Public Administration Review, 74(4), 2014, p.545.

However, due to the ambiguity of the meaning and the lack of unified definition of agency idea, the term "Agency" took over different interpretations and was embedded in various organizational forms in different contexts.

"Agencification has been particularly virulent in the post-Soviet world."[4] Georgia – a small, post-soviet country in the Caucasus is a good illustration for this. Just within this tiny country the number of officially recognized public law agencies rose to over 34 000 as "the Rose revolution accelerated the pace of reform beginning in 2004 and by December 2005 the authorities had converted about 2 700 individual schools into LEPLs."[5] "The February 2004 Law on the Structure of the Georgian Government gave them a central role alongside ministries."[6]

In the period of 2004-2012 two waves of public administration reforms have been conducted in Georgian public sector. The first wave of reforms was directed towards establishing NPM model. However, one might assume that, as in other CEE countries, in Georgia as well an introduction of the NPM was a way to demonstrate the country's western orientation, rather than rational and consequent choice of the PA model. Introduction of the NPM in Georgia in the state of a developing country without strong state institutions, well-established professional civil service, well-developed free market, have led to the overall failure of the PA reform.[7]

Having mentioned the context of the introduction of the NPM model in Georgian public sector, there arises a question whether Agencificaton - an important part of the NPM doctrine, was a rational choice of the reform to make the government more efficient and responsive to citizens or as the NPM model in general, it can be also considered to be the mere demonstration that the country was following the reform trend?!

These thoughts lead to the main research questions of the paper, namely: To what extent has the agency (LEPL) reform been implemented in the case of Georgia and what has been the failure? To what extent are the agencies in Georgia autonomous?

1. Theoretical Framework

1.1. The Agency Idea

The creation of the Agency model dates back to the global economic upheavals of the 1970s when the governments faced three large problems:

1. Financial: As the cost of continuing to run welfare states has climbed, the ability to tax seems to have diminished. These circumstances have created tremendous pressures to restrain the rate of growth of public expenditures – to economize;
2. An apparent decline in citizen trust in government institutions;
3. Rising citizen expectations with respect to the standards of public services.

[4] B. Lehmbruch, "It takes two to quango: post-Soviet fiscal relations, political entrepreneurship and agencification from below". ISS Working Paper Series/General Series, 538(538), 2012, p. 5.
[5] S. M. George, A. Billmeier, S. Ding, K. Fedorov, I. Yackovlev & J. Zeuner, "Legal Entities of Public Law in Georgia: Accountability and Reform". Georgia: Selected Issues 2006, p. 42.
[6] B. Lehmbruch & L. Sanikidze, "Soviet legacies, new public management and bureaucratic entrepreneurship in the Georgian protection police. Agencifying the police?" Europe-Asia Studies, 66(1) 2014, p.92.
[7] N. Dolidze, "Public administration reforms in Georgia: establishing administrative model for state organizations." Caucasus Social Science Review (CSSR*)*, 2, 2015, pp. 15-16.

Those problems together led directly to the proposition, articulated most loudly in the U.S.A. but echoed in many other countries, that governments must "do more with less". "This is where agencies come in. It's believed that agencies can help governments work better, yet more economically."[8]

Scholars outline organizational, functional, contingency and institutional (myth) approaches to explain Agencification. Organizational/institutional approach implies that agencies come about through power struggles and compromises conditioned by pre-existing organizational structures. According to the argument of functionalist approach, Agencification is a response to collective action problems, namely – agencies contribute to the reduction of political transaction costs, by providing solutions to collective-action problems that prevent efficient political exchange. Contingency approach suggests that decisions to create agencies have been motivated by needs to respond to particular circumstances of the moment. Finally, according to the institutional (myth) approach, the creation of agencies can also be seen as a trend in public policy and as a fashionable idea within the realms of public management.[9]

A number of academics have attempted to produce short definition of agencies:

"By an "agency", we mean an administrative body that is formally and organizationally separated from a ministerial, or cabinet-level, department and that carries out public tasks at a national level on a permanent basis, is staffed by public servants, is financed mainly by the state budget, and is subject to public legal procedures"[10]

Attempting to define the agency idea, one can't avoid the difficulties the scholars face to deliver a definition that would fit every case.

"As even a cursory review of international experience reveals, the term public agency, when used by a national government, really carries whatever meaning that government wishes to give to it."[11]

Pollit et al explain the reasons that complicate the uniform definition of agencies:

1. "Variation in public law between countries: the available legal boxes into which different kinds of public bodies may be placed vary widely;
2. Language itself: There are subtle shades of difference between the terms used in different languages. Important meanings may be lost in translation and new ones may unintentionally slip in;
3. Variation in political system: Two entities with broadly similar legal statues and formal powers may in fact operate in startlingly different ways because they are embedded in different kinds of political systems."[12]

1.2. Principal-Agent Theory

Agencification is often discussed and presented within the framework of principal-agent theory.

[8] C. Pollit, K. Bathgate, J. Caulfield et al. "Agency Fever: Analysis of an International Policy Fashion", Journal of Comparative Policy Analysis: Research and Practice, 3, 2001, pp.276-277.
[9] J. Trondal, M. Egeberg, Agencification. ISL Working Paper No 4, 2013, p.5.
[10] M. Egeberg & J. Trondal, "Political leadership and bureaucratic autonomy: Effects of agencification". Governance, 22(4) 2009, p.674.
[11] SIGMA. Financial Management and Control of Public Agencies. SIGMA Paper No. 32. Paris: CCNM/SIGMA/PUMA 2001,4, p.14.
[12] C. Pollit, K. Bathgate, J. Caulfield et al. "Agency Fever: Analysis of an International Policy Fashion", Journal of Comparative Policy Analysis: Research and Practice, 3 2001, pp. 273-274.

The principal-agent theory in the field of political science gained popularity in the 1970s, as political scientists were developing a more diverse array of scenarios for the delegation of power than were associated with the paradigm of economists. The main tenets of the paradigm in political science are the same as those in the economic version: "Principles delegate to agents the authority to carry out their political preferences. However, the goals of principles and agents, may conflict and because of asymmetries of information, principles cannot be sure that agents are carrying out their will. Political principles also face problems of adverse selection, moral hazard and agent opportunism. So, principles contrive incentives to align agent interests with their own and undertake monitoring of agent behaviour, activities that create agency costs."[13]

However, details are quite different. Political scientists assume multiple actors and consider a more diverse set of scenarios for delegating power beyond those inherited from the economics paradigm that call for a very different agency contract. For example, principals may delegate to agents to enhance the credibility of their commitments, to avoid blame for unpopular policies, etc. These scenarios imply a completely different agency contract. Principles that seek credibility from their agents select agents operating at arm's length, with different policy preferences, and grant considerable discretion and autonomy to them while still seeking to insure accountability.[14]

Abovementioned agency idea and the process of Agencification implies also different agency contract. As already mentioned, "justification for this kind of agency contract and public sector reform generally was to increase efficiency and effectiveness, enhance the autonomy of managers, place services closer to citizens, reduce political meddling and enable ministries to concentrate on the big policy issues."[15]

This kind of agency contract also implies a set of different actors – internal and external actors willing to implement the reform and veto-players. The existence and the role of external actors is especially significant in the context of the countries in transition that strive to establish democratic institutions. Foreign policy orientation and priorities associated with the membership of the international organizations have also an important impact on public administration reforms in the country.

Herewith, the main hypothesis of the paper is formulated:

H: "Agencification experience in Georgia implies different agency contract with a variety of actors, interests and goes beyond the classical economic model of principal-agent relationship."

2. Research Design and Methodology

In order to study the research question of the paper and to figure out to what extent the agency reform has been implemented in a specific context of the public sector, indicators will be defined based on the abovementioned definitions of the agency idea and the corresponding theoretical framework. The author will analyse the extent of the implementation of the reform along those indicators and will provide some insights on the question whether agency as an administrative model is functioning in the context of Georgia.

Based on the abovementioned definitions of the agency idea, three central elements have to be distinguished that make up the core of the 'agency' model:

[13] S. P. Shapiro, "Agency theory." Annu. Rev. Sociol., 31 2005, p. 271.
[14] Ibid.
[15] B. Verschuere & D. Vancoppenolle "Policy-making in an era of agencification: An exploration of task divisions between politicians, core departments and public agencies." Policy and Society, 31(3) 2012, p.249.

1. Structural separation/disaggregation and the creation of 'task specific' organizations
2. Managerial Autonomy in making decisions regarding personnel and financial management
3. Managerial Accountability over personnel, finance and other management matters

First important feature of agency model is structural separation that implies the legal autonomy and involves splitting up Ministries into core central body and several agencies carrying out specific tasks. In order to study the degree of separation, legal framework will be analysed.

Legal Framework	**Degree of Separation/Legal Autonomy**
Agencies are said to be separate but within the parent Ministry	Low
Agencies have their own legal personality	High

Second important feature of the agency model implies the degree of managerial autonomy.

"The concept of autonomy refers to a capacity to act independently from the control of other actors"[16] and is defined "as the level of decision-making competency (discretion) of an organization."[17] The concept of autonomy refers to different kinds of autonomy, such as legal autonomy (already mentioned above) managerial autonomy, policy autonomy as well as financial autonomy.[18]

Managerial autonomy constitutes the core of the NPM ideal-type agency model and implies that an agency "has the right to take decisions about managerial matters (concerning personnel and financial management) independently, without needing approval of the parent department, or ministries."[19]

The main argument for more managerial autonomy and the idea of 'letting the managers manage' free from the bureaucratic and political constraints is that it increases agency efficiency, effectiveness and accountability by placing direct responsibility on the agency itself.[20]

In order to provide a comprehensive picture about the autonomy of the agencies, policy autonomy of the agencies will be also examined. One should differ between policy formulation and policy implementation autonomy. Policy formulation autonomy implies discretion and leeway in defining and formulating policy goals, precise objectives, task prioritization etc. "Policy implementation autonomy refers to the discretionary authority of agencies to decide on certain aspects of the implementation of policies, without needing approval of the parent department or minister."[21]

Financial autonomy implies the extent to which the agency is financially independent - whether it has its own budget or is funded through the state budget.

To study the degree of autonomy following criteria will be analysed:

[16] T. Bach, B. Niklasson & M. Painter, "The role of agencies in policy-making." Policy and Society, 31(3) 2012, p.185.
[17] K, Verhoest, S. Van Thiel, G. Bouckaert, P. Laegreid, & S. Van Thiel, (Eds) Government agencies: Practices and lessons from 30 countries. London: Palgrave Macmillan. 2012, p.7.
[18] Ibid p.420.
[19] Ibid p.8.
[20] Ibid pp.421-422.
[21] Ibid p.8.

Who decides on the head of the agency?	Degree of Autonomy
Prime-Minister	Medium autonomy
Minister	Low autonomy
Parliament	High autonomy

Budget	Degree of Autonomy
Own Budget	High Autonomy
Dependent on the state budget but the ability to have its own revenues	Medium Autonomy
Fully dependent on the state budget	Low Autonomy

Staff	Degree of Autonomy
Appointment/Recruitment by the Agency	High Autonomy
Appointment/Recruitment by the Ministry	Low Autonomy

Regarding the analysis of the agency staff, focus will be placed on the agency personnel only at the later stage, after the agency is separated from the ministry – not at the beginning, when the agency is still a part of the ministry.

Policy Formulation	Degree of Autonomy
Agencies can define and formulate precise policy objectives, target groups, instrument choice or task prioritization independently	High Autonomy
Agencies can participate in consultations with the parent Ministry and contribute to the definition and formulation of precise policy objectives, target groups, instrument choice or task prioritization	Medium Autonomy
Agencies get the precise policy objectives, target groups, instruments choice or task prioritization dictated by the parent ministry	Low Autonomy

Policy Implementation	Degree of Autonomy
Agencies can decide on certain aspects of the implementation without the approval of parent Ministry	High Autonomy
Agencies can decide on certain aspects of the implementation only with the approval of parent Ministry	Low Autonomy

The third aspect of the agency model is the idea of steering and control system. The agencies are semi-autonomous entities and the principles will usually use different forms for control and steering to constrain their autonomy. In most countries, parent ministries are the main principles that supervise the performance of the agencies, but in a small number of countries there are other principals involved in the steering and control of agencies besides parent ministries, for example, parliament and other line ministries, or central ministries.[22] Steering and control system may entail setting targets for and reporting on the activities of an agency and may involve performance management, cost-cutting and budgetary discipline. However, Steering and control can also take the form of various rules, regulations and standards issued by governmental institutions or international organizations such as the EU or the WTO.[23]
In order to analyse third aspect of the agency model two dimensions will be studied: 1. Existence of performance management measures and procedures 2. (International) Regulations and standards imposed on the agency.

In order to study the extent of the implementation of agency reform, author focuses on the education sector for two reasons: 1. Education is of utmost importance to build a contemporary, fair and competitive state. High Education plays especially crucial role in the development of society in post-soviet states and has an impact on the economic growth of the country. Education sector constitutes a crucial policy field in Georgia. The country has undergone a set of reforms during the last decades. Government officials constantly make statements about the importance of this policy sector and underline that improving and reforming education sector belongs to the main priorities of the state policy.

2. There is no systematic study of the agencification process in the field of education in Georgia so far. The author intends to fill this gap with the following study.

Case study research as a core method of study has been applied. An in-depth analysis of a set of typical cases for the agencies in the education sector has been conducted. "The typical case study focuses on a case that exemplifies a stable, cross-case relationship. By construction, the typical case may also be considered a representative case, according to the terms of what-ever cross-case model is employed."[24]

Case study research implies the study of a variety of data and evidence. In the following study, documentation and interviews are the main sources for the data. Following methods have been applied: 1. Content analysis method to study and to analyse the Statutes, establishing documents of the agencies and the law that describes the Agencification process in Georgia and 2. Interview method.

[22] Ibid pp.425-426.
[23] M. Asensio, "Has Agencification succeeded or failed in public sector reform? The case of Portugal." 2011, p.6.
[24] J. Seawright & J. Gerring, "Case selection techniques in case study research: A menu of qualitative and quantitative options." Political research quarterly, 61(2) 2008, p.299.

In order to study the Agencification process in the education sector typical cases operating under the aegis of the Ministry of Education and Science of Georgia have been chosen: LEPL Shota Rustaveli National Science Foundation of Georgia, LEPL Education Management Information System, LEPL International Education Centre, LEPL National Centre for Education Quality Enhancement, LEPL National Examinations and Assessment Centre, LEPL Office of Resource Officers of Educational Institutions, LEPL National Centre For Teacher Professional Development, LEPL Educational and Scientific Infrastructure Development Agency.

Interviews with the directors/deputy-directors of six agencies - LEPLs had been conducted. Interviews couldn't be conducted in LEPL National Centre for Education Quality Enhancement and LEPL National Center for Teacher Professional Development.

Discussion of findings

The conducted study showed that the agencies in the education sector execute a wide range of specific tasks. They supplement and contribute to the functioning of the System of Ministry of Education and Science of Georgia. The LEPLs are task specific organizations with their particular area of action.

Based on the results of the empirical study, following conclusions can be drawn:

Agencies in Georgia, so called LEPLs, have a high degree of legal autonomy. They possess their own legal personality. Legal aspects of their functioning are regulated by the Law of Georgia on Legal Entities under Public Law and different normative and legal acts of Georgia dependent on their specific mission and tasks that they execute.

In 5 cases, the decision on the head of the agency is made by the Minister. In the case of the LEPL Educational and Scientific Infrastructure Development Agency, the head is appointed by the Prime-Minister due to the scale and importance of activities implemented by the agency and the size of the budget.

Financial autonomy of the agencies is assessed as medium. In all 6 cases, agencies are financed by the state budget, but the LEPLs are also entitled to receive independent revenues based on their expertise. Regarding state budget, after the approval of the budget plan by the government and the Ministry, the agencies can dispose allocated budget independently and in some cases they are also entitled to make some minor modifications.

The agencies have high autonomy in making decisions regarding personnel management. They are fully independent in terms of recruitment of staff. However, modifications regarding the number or structure of personnel require the approval of the Ministry.

General policy directions and priorities at the conceptual level are defined by the government and the Ministry of Education and Science of Georgia. The LEPLs are usually the administrators and implementers of these decisions. However, there is a possibility for the agencies to engage in political consultations with the Ministry and based on their expertise contribute to the policy formulation. In the four examined cases the degree of autonomy in terms of policy formulation has been assessed as medium. Different outcomes in two cases (LEPL National Assessment and Examinations Center – low and LEPL International Education Center – high) are due to the specific nature of the mission and tasks executed by the agencies.

The Ministry of Education and Science of Georgia is the main principal the agencies are accountable to. However, regarding financial aspects Ministry of Finance and State Audit Office of Georgia are also involved in the control and steering process. Based on the 112-th order of the Ministry of Finance, the agencies are obliged to submit standardized performance reports quarterly. The Ministry of Education and Science of

Georgia is also entitled to request the additional information and documentation from the LEPL for the purpose of control and steering.

There are no international regulations issued by the international organizations that are imposed on the agencies. However, the LEPLs are usually under the indirect influence of all international agreements and conventions signed by the government of Georgia.

Conclusion

What kind of agency contract does the Agencification experience in Georgia imply on the example of the education sector?!

A wide range of specific tasks executed by various LEPLs makes this agency contract so different. LEPLs are there in order to supplement and to assist the Ministry in fulfilling its policy.

Empirical examples show that the relationship between the Ministry and the agencies are often based on collaboration and cooperation principles. Principal – Ministry of Education and Science delegates its authority because it needs more resources to execute a wide range of tasks. Without agencies the Ministry wouldn't be able to implement this policy. So, the principal and the agents assist and supplement each other. The LEPLs examined in the study build and contribute to the system and functioning of the Ministry.

This agency contract implies multiple actors. In addition to the Ministry of Education and Science which is the main principal in this relationship, Ministry of Finance might be also considered as a principal that the agencies are financially accountable to.

Regarding the actors willing to implement the reform, there is no evidence that external actors – international organizations had an impact on the Agencification process in this very specific policy field. It was more an internal decision.

Analyzing the failures of the Agencification process, one should definitely underline the shortcomings regarding the legal framework. The main law regulating the Agencification process in Georgia – The Law of Georgia on Legal Entities under Public Las was amended in 1999. The law has been criticized for its lacks of concreteness.

Performance management and measurement methods described in the study are considered to be old-fashioned and obsolete.

Legal status of employees constitutes another challenge. There was a long debate about whether the employees of the agencies should also be considered and treated as public servants. According to the new regulations, they will also have a legal status of public servant.

Constant reforms and structural changes put another challenge to the Agencification. E. g. in order to make the bureaucracy more effective, a number of Ministries have been merged in 2018. This had it as a result that the agencies operating under the aegis of the Ministry of Culture, Sport and Youth at the moment of conducting the empirical study belonged to the system of the Ministry of Education, Science, Culture and Sport. Such developments might be also considered as a challenge.

Finally, one should note that the study is subject to some limitations. Education sector has its specificity that limits the generalization of the outcomes. So, depending on the policy field, the relationship between the Ministry and Agencies also varies. Each Ministry has its specificity and work culture with agencies.

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17. Order of Minister of Education and Science of Georgia N 229/N on the establishment and approval of the statute for the LEPL Education Management Information System;
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JOURNALISM

WHAT IS "STRATEGIC COMMUNICATIONS"?

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Abstract

Strategic Communications, (contracted to "StratCom") as a separate field/profession, is still in the process of formation and, consequently, is not fully studied yet, especially in Georgia. Moreover, even the individuals working in this field find it difficult to properly understand the importance and functions of "StratCom" and, in general, to distinguish it from communication and information disciplines such as "public relations". Despite the importance and urgency of the issue (especially in today's information-laden environment), this topic has not been studied in depth. The present paper directly and clearly confirms that the current definitions of "Strategic Communications" and the authors' reasoning do not form the basis for creating an independent theoretical framework for the profession, which in turn, would end any professional misunderstandings and also no longer mislead individuals or educational institutions.

Some experts in this field have been trying for years to create a theoretical framework for "Strategic Communications", which, as a rule, should be a sharp separation of "StratCom" from other related disciplines and set a different scope, goals or objectives for this new discipline. Nevertheless, the above-mentioned attempts fail to lead us to the desired result. The use of "Strategic Communications" as an information discipline in professional, educational institutions or government agencies is done by "individual" interpretation of certain persons and/or groups. A good and clear example of this issue is the statement made by the Deputy Minister of Defense of the Czech Republic, Jan Havranek, noting that strategic communication is often confused with "public relations" or even political technologies. Compared to the complicated situation in the "West", the case is even worse on its periphery, for example in Georgia, where the import of knowledge and experience on the "StratCom" started from the "West".

The purpose of this paper is to provide the public with a critical understanding of the existing definitions of "strategic communications" and, secondly, to share with them a discussion of the relevance regarding our vision of strategic communications.

The paper uses all the basic literature that would more or less enable us to discuss the existing terms, show us the essence of the problem and help us to achieve the purpose of the publication: to explain the "Strategic Communications", to establish/understand the relevance of the vision.

Keywords: Strategic Communications, Glossary, Public Relations, Planned Communication, Information Environment.

Introduction

From the 2000s to the present, "Strategic Communication" (StratCom), as a new discipline of information management, actively fights for self-determination and maintains tough relations with already established similar specialties or professions (informative and psychological operations, public relations, marketing, integrated marketing communications, organizational communications, etc.).

More became known about the "Strategic Communications" in 2014-2015. Following the Russo-Ukrainian War, the North Atlantic Alliance named the "Strategic Communications" as one of the most effective tools for confronting Russia's hybrid threats. In Eastern European countries of Ukraine and Georgia, the development of structural units of strategic communications in state agencies has actively begun. NATO member and partner countries have invested both human and financial resources in this direction.

Strategic Communications trainings for representatives of both private and public agencies soon started in Georgia. Developing Strategic Communications courses has become a trend in educational institutions and in this way, attracting an additional stream of students. It should be noted that Georgia, in this case, was a natural part of the ongoing processes in Europe. It was during this period that the renowned British educational institution King's College developed a new master's course in Strategic Communications.

Nevertheless, we think that the answer to the question of what strategic communications needs to be provided. Lack of answer to this question leads to professional misunderstandings, misleading university entrants trying to select modern and competitive disciplines as their future profession; public relations representatives feeling uneasy with the Strategic Communications representatives at workplaces. Thus, in this paper, we endeavor to bring more clarity, firstly, to the term "Strategic Communications" itself and try to contrast it with the second term, which we have long known as "public relations". The paper also discusses a critical understanding of the existing definitions of "Strategic Communications" and, finally, discusses the validity of our vision of "Strategic Communications".

1. Discussions Regarding the Term

The term "Strategic Communications" (StratCom) was first used during World War II and it was defined as a transport system during warfare.[1] Second, "Strategic Communications" appeared again in 1966[2] when Lt. Col. Robert D. Stroke of the American National War College published an essay on "STRATEGIC COMMUNICATIONS AND THE SPECTRUM OF CONFLICT". According to Jesper Falkheimer and Mats Heide,[3] "Strategic Communications" was still discussed in the Journal of Peace Research in 1966 as a mechanism for maintaining peace in the face of nuclear conflict. Although the Strategic Communications has been debated since the second half of the twentieth century, it lacked any scientific research and theoretical basis until the end of the same century.

The first attempt at an academic understanding of "Strategic Communications" as a new information discipline was made in 2007. Led by Kirk Hallahan, the group of authors defined strategic communications as: "In its broadest sense, the process of targeted communication for the success of an organization's mission". They also

[1] J. Falkheimer, m. Heide, From Public Relations to Strategic Communication in Sweden: The Emergence of a Transboundary Field of Knowledge, Nordicom Review, January 2014, available here: https://www.researchgate.net/publication/287139564, [L.s. 03.8.2021].
[2] R. D. Stroke, "STRATEGIC COMMUNICATIONS AND THE SPECTRUM OF CONFLICT", U.S. ARMY MILITARY HISTORY INSTITUTE, April 22, 1966, available here: https://apps.dtic.mil/dtic/tr/fulltext/u2/a488153.pdf [L.s. 03.8.2021].
[3] Falkheimer, Heide, See. Footnote 1.

argued that strategic communications "imply that people engage in informed/targeted communicative activities, public movements and processes on behalf of organizations."[4] According to the authors of the above-mentioned book, the impact on knowledge levels, attitudes, and specific behaviors is a major consequence of the use of strategic communications.

The year of the publication of the above-mentioned paper by Hallahan coincides with another, but this time non-academic, definition of the term "Strategic Communication" found in the US National Strategy for Public Diplomacy and Strategic Communication. This document was issued[5] in 2007 by the Policy Coordinating Committee.[6] In this case, the document defines the common goal of both disciplines of public diplomacy and "StratCom" as follows: "It should seek to uphold the fundamental values and national security objectives of our nation".

All communications and public diplomacy activities should:

- Emphasize our commitment and responsibility in the cause of freedom, human rights and the protection of the equality and dignity of every citizen;
- Reach out to everyone who shares our ideals;
- Help everyone who fights for democracy and freedom;
- Resist anyone who supports the idea of violence and oppression".

In 2008, another paper on strategic communications in the military field appeared,[7] in which "StratCom" was explained as: "Strategic communication is important for both internal and external audiences. Strategic communication is an inter-agency, strategic event in which the military is represented as an ordinary participant. ... In a modern information environment, strategic communication must be transparent, reactive and proactive".

In 2010, the U.S. Congress renewed the United States National Framework Concept on Strategic Communications, which included the following entry: "We consider strategic communication to be the synchronization of our words and actions and how it is understood by others through programs and activities aimed at engaging the target audience and carried out by professionals in public diplomacy, public affairs and information operations".[8] The term "Strategic Communications" also referred to national security support in one of the UK Ministry of Defense's 2012 military doctrines:[9] "Supporting national interests by using all means of defense to influence people's attitudes and behavior". According to the authors of the document, this definition of strategic communication was prepared by the National Security Council (NSC) of the United Kingdom based on a working version of the definition of strategic communication. In its turn, the UK National Security Council's definition of the term looks like this: "The systematic and coordinated use of communications to achieve the UK's national objectives by influencing individuals, groups and states". In

[4] K. Halahan, "Defining Strategic Communication", International Journal of Strategic Communication, March 2007, available here: https://www.researchgate.net/publication/241730557_Defining_Strategic_Communication, [L.s. 03.8.2021].
[5] Policy Coordinating Committee (PCC) - The committee was conceived as the United States Interagency Coordinating Structural Unit for communicating with foreign audiences.
[6] Policy Coordinating Committee, "U.S. National Strategy for Public Diplomacy and Strategic Communication, 2007, available here: https://2001-2009.state.gov/documents/organization/87427.pdf, [L.s. 03.8.2021].
[7] S. A. Tetham, Strategic Communication: A Primer, Defense Academy of the United Kingdom, December 2008, available at: https://www.files.ethz.ch/isn/94411/2008_Dec.pdf, [L.s. 03.8.2021].
[8] Homeland Security Digital Library, "UPDATE TO CONGRESS ON NATIONAL FRAMEWORK FOR STRATEGIC COMMUNICATION", 2012 available at: https://www.hsdl.org/?view&did=704809 [L.s. 03.8.2021].
[9] Joint Doctrine Note 1/12, "Strategic communication: the defense contribution", 2012, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/33710/20120126jdn112_Strategic_CommsU.pdf [L.s. 03.8.2021].

2013, in the definition of the term "StratCom", a unifying definition of pre-existing attributes emerged, which argued: "Strategic communication is the act of conscious and purposeful communication, when the communicator acts on behalf of the organization[10] to achieve public goals".[11]

In 2014, the communications researchers mentioned above, Jesper Falkheimer and Mats Heide, explained "StratCom" as "Strategic communication is a conceptual and comprehensive framework that is more relevant than public relations ... We think that strategic communication combines organizational (internal) communication as an aspect of management theory, including marketing. Therefore, this data allows us to better understand, explain and criticize the modern communication process, both within organizations and between organizations with the external community".

On the website of the NATO School of Strategic Communications (the School was established in 2014[12]), "StratCom" is defined in the following way: "Strategic communication is the coordinated and appropriate use of NATO communication measures and capabilities to support Alliance policies and activities to achieve Alliance goals". According to the explanations given above, the military roots of the word "Strategic Communication" are obvious.

Since 2014, the military has demonstrated particular sympathy and demand for "StratCom" on the basis of which we can consider Russia's military aggression in Ukraine. In response to the so-called Russia's "hybrid threats", the North Atlantic Alliance, among other measures, named the development of strategic communications in member and partner countries. The European Union has taken the same path.[1314] However, dozens of universities and various types of educational institutions in the West have made this discipline a subject of study for civilians alongside PR, marketing, corporate marketing, and integrated marketing communications.[15]

"Strategic communications" soon became more and more fashionable and popular in Western society, although this process was accompanied by a great deal of misunderstanding and professional rivalry between the "strategic communication" and "public relations" practices that continue to this day. In this context, it is interesting to note that the American Public Relations Association in 2011-2012 revised the definition of "public relations" established in the 1980s and offered a new version: "Public relations is a strategic communication process that develops mutually beneficial relationships between organizations and their audiences".

It should be noted that 2011-2012 is more or less the most active period for discussing strategic communications in "Western" academic circles. Consequently, the emergence of word-for-word "Strategic Communications" in the PR definition has further deepened the professional gaps between the fields. It should

[10] "Organization" (Communicative Entities) means non-governmental and governmental organizations, social-political or economic associations.
[11] Derina Holtzhausen, Ansgar Zerfass, Strategic Communication Opportunities and Challenges of the Research Area, in The Routledge Handbook of Strategic Communication, Routledge Publishing, 2015, pp. 29-621.
[12]NATO Strategic Communications Centre of Excellence – information about the organization is available at: https://www.stratcomcoe.org/about-us [L.s. 03.8.2021].
[13] Axel Hagelstam, "Cooperating to counter hybrid threats", November 23, 2018, Policy and Analysis section of the North Atlantic Council official website, available here: https://www.nato.int/docu/review/2018/also- in-2018 / cooperating-to-counter-hybrid-threats / EN / index.htm [L.s. 03.8.2021].
[14] Source organization: European Union Institute for Security Studies (EUISS), commissioned by the European Parliament's Foreign Affairs Committee, "Strategic Communications With a View to Counteracting Propaganda", May 2016, available here: https://www.europarl.europa.eu/ RegData / etudes / IDAN / 2016/578008 / EXPO_IDA (2016) 578008_EN.pdf [L.s. 03.8.2021].
[15] K. Hallahan, Defining Strategic Communication, International Journal of Strategic Communication, March 2007, available here: https://www.researchgate.net/publication/241730557_Defining_Strategic_Communication, [L.s. 03.8.2021].

be noted that this process came naturally to the Georgian reality when the development of "Strategic Communications" in state institutions began with the help of the North Atlantic Alliance.[16]

2. Struggle for Self-Determination

There has naturally been a moment of professional competition and rivalry between public relations specialists and those involved in the development of StratCom's structural units in government agencies. This process, of course, was facilitated by the lack of sharp differences between the professions, but then and now, the situation was further complicated and is still aggravated by the superficial attitude of high-ranking Georgian officials, both "StratCom" and "PR" and, in general, on the importance of communication on the way to achieving organizational goals.

Where is the problem found? We think it would be appropriate if, in order to answer this question, we consider in a sequence the scientific and non-scientific attempts to give importance to "Strategic Communications", which we have already presented above.

Such efforts are, first of all, a more or less modern and well-known definition of "StratCom", which was offered in 2013 by Derina Holtzhausen, Ansgar Zerfass: "Strategic communication is an active, conscious communication. The communicator acts in the name of the organization[17] in the public space to ensure the set goals".[18] This definition, uniquely, consists of two parts. First, the words that the authors pay special attention to are: "Strategic communication is the practice of deliberate and purposive communication".

How useful is the emphasis on these two words in order for "StratCom" to be sufficiently separated from its relative and, in this case, competing discipline? We think that, in this way, it is a very weak attempt by the authors. In 2001, a book titled "Fundamentals of Public Relations" was published in the United States by Wilcox,[19] Dennis L., Philips Autt, Warren Agee and Glen Cameron[20]. An updated version of the same book, "Public Relations - Strategy and Tactics", was also published in 2011 by the US Embassy in Georgia's Book Translation Program, this time by Wilcox and Cameron. However, in both of the above-mentioned editions, among the words used in the definitions of "public relations" and form the meaning of the term, the first word is "deliberate" and the word "planned" is the second.[21]

The main task of the model of public relations by Edward Bernays, the so-called "Father of PR", was to use a behavioral psychology and other scientific disciplines to convince the target audience. In such a case, it is inconceivable that communication is devoid of "forethought" and "purposefulness", especially if it is "planned".

[16] In 2014, at the Wales Summit, Tbilisi received the Substantial NATO-Georgia Package, which is successfully implemented by the Georgian side by the decision of NATO member states and with the support of the same countries. With this decision, NATO began to strengthen our country's defense capabilities in 13 areas. 13 initiatives were developed, which are known to be based on the analysis of the events of 2008, the identified shortcomings and mistakes. Several initiatives are declassified, while some remain classified for objective reasons. Within the framework of the above-mentioned package, a Joint Training and Assessment Center and a School of Defense Institution Building were established in Georgia. Also, the development of a completely new direction in the defense system, the discipline of strategic communications, has begun. In 2015, the Department of Strategic Communications was established at the Ministry of Defense of Georgia within the framework of the Substantial Package.
[17] Communicative entities mean non-governmental and governmental organizations, socio-political or economic associations.
[18] D. Holshausen, Ansgar Zerfass, Strategic Communication Opportunities and Challenges of the Research Area, in The Routledge Handbook of Strategic Communication, Rutledge Publishing, 2015, p. 29-621.
[19] Dennis L. Wilcox, a representative of the School of Journalism and Mass Communication at San Jose State University.
[20] G. T. Cameron a Representative of the School of Journalism at the University of Missouri.
[21] D. L. Wilcox, Glant T. Cameron, Public Relations - Strategy and Tactics, Diogenes Publishing House, 2011, Chapter 1, p.7.

To make our reasoning even more convincing, it would be appropriate to address the arguments of the German philosopher, Jürgen Habermas, about communication. Habermas in his Theory of Communicative Action, published in 1981, distinguishes four ideal types of social action, including two of interest to us: communicative action and strategic action.

With Habermas, action is strategic when it comes to action-oriented, selfishly directed actions: "strategically acting entities that are not limited to instrumental interventions in the world and pursue their goals by influencing the decisions of other actors ...",[22] and the purpose of "communicative action" is completely different: it is an action focused on consensus and mutual understanding, that is, communication is an action by nature and this action can be both communicative and strategic.

These types of actions differ from each other, although Habermas's reasoning confirms that both of them are "deliberate". If we look at the more or less established and recognized role of public relations, we will be convinced once again that it is inconceivable that "PR" produces aimless communication. According to Lawrence W. Long, and Vincent Hazelton, PR is "the management communication function through which an organization adopts, changes, or maintains its environment to achieve organizational goals".[23] Achieving organizational goals, which must be fulfilled through communication, necessarily requiring planning and goal setting.

In such a case, it is clear that we are dealing with social behaviors that are driven by information and that will inevitably be directed at the recipient of the information. Thus, we are dealing with planned, purposeful and conscious communication. The second part of Holshausen and Zerfass's definition focuses on acting on behalf of the organization in the "public space", which the authors say should give the area of exclusive action to "strategic communication" and thus ultimately separate it from public relations and/or other related entities.

What is public space? According to the German philosopher Jürgen Habermas,[24] the "public space" was born in Europe with the rise of capitalism. It was an arena of social coexistence where public opinion was born; A space for critical reflection and self-presentation, where the press played a special role, which will eventually become the backbone of the "place". Speaking on the subject, Habermas refers to the eighteenth and nineteenth centuries and says that this was the "space" which society referred to the "public use of the mind".[25]

It was a space where, according to Habermas, people refused to engage in manipulative, insincere relationships, and preferred a rational form of problem-solving: arguing, deliberation, discussion for the public good. In this way a space of public judgment was formed, the Habermas structuring of which looks like the following: political public space and literary public space. The literary space, which consisted of coffee/tea houses, cafes, salons, clubs and other institutions, formed a discussion space that further facilitated people's self-presentation and critical discussion of issues.

This reality inspired Gigi Tevzadze to write in his work: "European high culture has become open from representation: until the new era, only units could self-present and only units had the right to do so. Salons and coffee houses contributed to making self-presentation accessible to everyone in principle. The axis of modern

[22] J. Habermas. "Preliminary outlines and additions to the communicative theory of action", Kutaisi Publishing Center, Editor: Guram Tevzadze, 2003.
[23] D. L. Wilcox, Glen T. Cameron, Public Relations - Strategy and Tactics; Diogenes Publishing House, 2011, Chapter 1; P.6.
[24] J. Habermas, German philosopher https://www.britannica.com/biography/Jurgen-Habermas [L.s. 03.9.21].
[25] Ilia State University, "Immanuel Kant", 2017, available at: https://library.iliauni.edu.ge/wp-content/uploads/2017/03/kanti.pdf [L.s. 03.9.21].

culture and public space is communicative rationality and communicative action. It is because of communicative rationality that culture becomes open and attracts as many people as possible".[26]

However, as capitalism became more and more powerful, Habermas public space began to slowly disappear. Once sincere communicators who reached out for public good with arguments and good faith debate, now use agitations for the benefit of governments and private companies. Lobbying, PR strategies emerged, businesses began funding people to represent their interests in parliament, the media became more and more dependent on advertising. Through regulations, the modern state is an active participant in public space.

Even the once independent members of the public space, now through elections seem to have been and will not be cut off from the Habermas public space. Habermas also talks about new post-liberal trends and says they have lost their political function in public space. The process of socialization, which is unimaginable without communication, is still going on, although it is, this time, already filled with biased, hired specialists who are busy organizing political and economic masquerades. In such a situation, the German philosopher thinks that public opinion was no longer an instrument for establishing the truth. Public opinion was no longer a servant of the truth, and communication became more manipulative. In his view, today, communicative rationality is no longer the cause of such goodness as public space, open culture, the emergence and spread of enlightenment and identities. Nevertheless, there are opposing and counter-views as well.

Gigi Tevzadze says in one of his online lectures that after the 17th century, the 21st century is the time when the Enlightenment is given a second chance to spread as successfully as it once did thanks to the press of that time.[27] For example, Tevzadze names such big actors as: anti-globalism, the green movement, groups of activists created around climate change, and others. What is this innovation that has actually replaced the Habermas public space, which, in turn, was created by the Enlightenment and which has "turned European high culture from representation to openness"? Most likely it must be a modern information environment, the partial statistics of which look like this:

- As of the end of 2020, 4.5 billion people use the Internet;[28]
- 3.5 billion search operations per day are done in "Google";[29]
- More than a billion hours is sent watching a day on YouTube;[30]
- 319 new users are added to Twitter every 60 seconds;[31]
- 41,666,667 messages are sent/shared on WHATSAPP;[32]
- More than 80 million small businesses around the world use Facebook;[33]
- 527,760 photos are shared by Snapchat users in one minute;

[26] G. Tevzadze, "What is Enlightenment", Ilia State University, 2012, available here: https://bit.ly/3ccdcNu [L.s. 03.9.21].
[27] G. Tevzadze, Title of the lecture: "The history of constructing a great identity. Enlightenment as the First Great Identit ", a video lecture course on YouTube, May 15, 2011, is available here: https://www.youtube.com/watch?v=F-c1Vk1oKKk [L.V. on 03.9.21].
[28] A. Ali, "Here's What Happens Every Minute on the Internet in 2020", Visualcapitalist.com, September 15, 2020, available at: https://www.visualcapitalist.com/every-minute-internet-2020/ [L.s. 03.9.21].
[29] M. Mohsin, "10 GOOGLE SEARCH STATISTICS YOU NEED TO KNOW IN 2021", www.oberlo.com, April 3, 2020, available here: https://www.oberlo.com/blog/google-search-statistics [L.s. 03.9.21].
[30] K. Newbury, 25 YouTube Statistics that May Surprise You: 2021 Edition, blog.hootsuite.com, February 3, 2021, available here: https://blog.hootsuite.com/youtube-stats-marketers/#YouTube_user_statistics [L.s. 03.9.21].
[31] Ali. See Footnote 28.
[32] Ibid.
[33] M. Mohsin, "10 FACEBOOK STATISTICS EVERY MARKETER SHOULD KNOW IN 2021", www.oberlo.com, January 15, 2021, available here: https://www.oberlo.com/blog/facebook-statistics [L.s. 03.9.21].

- 510,000 comments are posted on Facebook every minute;
- 500,000,000 people use Instagram Story every day;[34]
- 347,222 "stories" are shared on Instagram in one minute;[35]
- 600 new pages are added to Wikipedia every minute.[36]

What novelties did the modern information environment bring us? It is a more virtual reality that can be successfully compared to the public space transformed by Habermas, which, in turn, has created invaluable benefits for individuals, even isolated ones, in addition to identities:

- Eliminated geographical barriers;
- Inspired new ways of self-presentation;
- New levers of democratic pressure on the government have emerged;
- There has emerged a greater space for the expansion of personal freedoms;
- Reduced time required to realize goals and desires;
- Every citizen is already a journalist by phone today;
- Everything has gone global Today.

The digital reality described above clearly proves that the Enlightenment is now given another chance to inspire new identities thanks to a new public space where billions of people are already given a chance to "publicly use one's reason": any Facebook post, any YouTube video can be considered as a modern, 21st-century version of Kantian "public use of one's reason". In this new, public space society is included. Where are the organizations as social actors?

Here it is important to understand that organizations (private as well as international, non-governmental and governmental institutions are meant) are the most important representatives of the modern public space. They engage in discourse by participating in this "space" or they themselves create topics for discourse. They have the ability to persuade (communicate). For example, the monthly Facebook advertising amount paid by small businesses alone ranges from 500 to 1500 USD. According to the publication "Business Insider", in 2012, "Facebook" received a billion dollars from advertising services in just one quarter.[37] According to the data of 2020, the advertising revenues of the social network "Facebook" have already amounted to 84.2 billion US dollars, which is also 21% more than the revenues of 2019 (69.7 billion).

A total of $796.8 million was spent on political advertising on this platform during the 2019/2020 election cycle, and it became the dominant digital advertising digital platform. Created by more than 3.3 billion users, this public space clearly gives the impression that it is more commercial than political.[38] As of 2020, there are

[34] K. Newber, "44 Instagram Stats That Matter to Marketers in 2021", blog.hootsuite.com, January 6, 2021, available here: https://bit.ly/3ejyf35 [L.s. 03.9.21].
[35] A. Ali, "Here's What Happens Every Minute on the Internet in 2020", Visualcapitalist.com, September 15, 2020, is available here: https://www.visualcapitalist.com/every-minute-internet-2020/ [L.s. 03.9.21].
[36] Wikipedia, "Wikipedia: Statistics", April 6, 2021, available here: https://en.wikipedia.org/wiki/Wikipedia:Statistics [L.s. 03.9.21].
[37]J. Edwards, "Meet The 30 Biggest Advertisers on Facebook", Business Insider, September 24, 2012, available here: https://www.businessinsider.com/the-30-biggest-advertisers-on-facebook-2012-9 [L.s. 03.9.21].
[38] G. Sloan, "FACEBOOK REVEALS ITS BIGGEST POLITICAL AD SPENDERS", adage.com, October 23, 2018, available here: https://adage.com/article/digital/facebook-shows-biggest-political-ad-spender/315373/ [L.s. 3.10.21].
Facebook Revenue and Usage Statistics (2020) https://www.businessofapps.com/data/facebook-statistics/ [L.s. 16.03.2021].

about 90 million business organizations (the so-called "Page") on Facebook[39], and much of it is active advertising. The advertising revenue of another social network, Instagram, in the second quarter of 2018 amounted to $ 2 billion. A profile of 8 million business organizations was registered on the platform.[40] In 2020, Instagram's advertising revenue amounted to 6.8 billion. Clearly, we are dealing with Castells' "information society", in which "the world is an arena where individuals try to influence the environment: their efforts intersect, coincide, succeed or fail. Central to these efforts is the way information is transmitted/received: individuals try to understand the information they pass on to others as well as to the information they receive from others, since it depends on the perfection of the way the individual achieves the goal for which it started social behavior".

Thus, in modern public space, societies and organizations are in communication with each other. We are dealing with an extremely intertwined "space" where the physical world is successfully replicated (duplicated) in the virtual world. Therefore, deriving from all the above-mentioned, it becomes clear that the practice of public relations takes place in this "public space" and that this "space" cannot be considered as an exclusive area of operation of "StratCom", as the authors suggested in the definition of strategic communication.

It is in this "space" that all exchanges of information take place as social behavior. Even our reasoning on the term proposed by Derina Holshausen and Ansgar Zerfass in 2013, we think, extends to the definitions proposed in 2007 by a group of authors led by Kirk Hallahan. They said that strategic communication "means that people engage[41] in realized/targeted communication acts, public movements and processes on behalf of organizations". When defining the role of strategic communications as a term and/or "StratCom", one of the most prominent is the word "influence" in relation to behavior.

For example, "Supporting national interests by using all means of defense to influence people's attitudes and behavior".[42] The above-mentioned paper, prepared by Hallahan and a group of authors, also states that "influencing" knowledge levels, changing attitudes, and "influencing" specific behaviors are key functions of strategic communications. A similar view can be found in the 2008 paper by the British military, Steve Tatham, in which he offers an interdepartmental definition[43] of strategic communication: influence through communication to cause a change in behavior. Again, our area of interest is to determine the extent to which "influence" on the behavior of the target audience is the exclusive prerogative of strategic communications, which even takes the place of StratCom's definition by some authors and which, as it could not and/or will not fall into responsibilities of related disciplines.

The main cause of interstate conflicts is often the desire for access to free natural resources.[44] As much as it is known to political and economic interest groups that these natural resources are both vital and inexhaustible,

[39] Facebook's annual revenue from 2009 to 2020, by segment - https://www.statista.com/statistics/267031/facebooks-annual-revenue-by-segment/ [L.s. 5.3.2021].
[40] D. Cohen, "Instagram Now Has More Than 1 Million Monthly Advertisers and 8 Million Business Profiles" adweek.com, March 2017, available here: https://www.adweek.com/digital/instagram-1-million-monthly-advertisers -8-million-business-profiles/ [L.s. 3.10.21].Projected revenue of Instagram from 1st quarter 2017 to 4th quarter 2020 https://www.statista.com/statistics/448157/instagram-worldwide-mobile-internet-advertisingrevenue/#:~:text=In%20the%20fourth% 20quarter% 20of, the% 20second% 20quarter% 20of% 202019. [L.s. 16.03.2021].
[41] K. Halahan, Defining Strategic Communication, International Journal of Strategic Communication, March 2007, available here: https://www.researchgate.net/publication/241730557_Defining_Strategic_Communication, [L.s. 03.8.2021].
[42] Joint Doctrine Note 1/12, "Strategic communication: the defense contribution", 2012, p.1, available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/ file / 33710 / 20120126jdn112_Strategic_CommsU.pdf [L.s. 03.8.2021].
[43] S. A. Tetham, Strategic Communication: A Primer, Defense Academy of the United Kingdom, December 2008, available at: https://www.files.ethz.ch/isn/94411/2008_Dec.pdf, [L.s. 03.8.2021].
[44] worldwater.org, Water Conflict Chronology, is available here: http://www.worldwater.org/conflict/list/ [L.s. 3.10.21].

they are ready to fight each other for these resources. In this case, the target object for them is a "natural resource"; for example, drinking water.

We have to realize that as natural resources are exhaustive and limited, so access to our psyche is exhaustive and limited too, which is the main target when individuals of social system communicate with each other. The psyche, like "drinking water", is an inexhaustible resource: we cannot make friends with everyone, we cannot trust everyone, we cannot give up on everyone, we cannot share with everyone, we cannot agree with everyone and so on. However, it is known that the fight for "mastery of the psyche" is possible, as it is the most vulnerable human function.[45] Moreover, it can be said that the struggle of individuals for the "psyche", or for the mastery of the mind of another individual, is a natural need.

It is well known that "intelligent creatures that have a central nervous system, can develop mechanisms of survival and success only by communicating with each other".[46] It is in this way that communication is crucial. We think that any communicative action that leads to the persuasion of the latter from the object, in itself leads to the strengthening, change and/or maintenance of behavior, attitudes, attitudes, or influence on them. This opinion is supported by Z. Kikvidze and G. Tevzadze's opinion regarding "Evolution" that "the world is an arena where individuals try to influence the environment: their efforts intersect, coincide, succeed or fail". The key to these efforts is the way information is transmitted/received: individuals try to understand the information they pass on to others as well as to the information they receive from others, as their success depends on the perfection of the way they receive it".[47]

Since we think that the communication process between individuals naturally involves influencing each other's moods, behaviors, and attitudes (in order to achieve a better environment and manage the existing one), the question naturally arises: what are the effective ways to influence the psyche as a limited resource: for output/extraction? Our answer is persuasive communication.

Whether it is an integral part of public relations as a discipline, we think, yes, it unquestionably is. It is hard to imagine a stage in the public relations profession where persuasive communication is neglected, especially when in the very first stages of the profession we find emphasis on the importance of persuasion (persuasive communication) from those who call themselves the "fathers" of the profession. "You have to study the emotions of people and all the factors that motivate them and what will convince them in all areas[48] of their activity", Ivy Lee said as early as 1921, when talking to future public relations practitioners.

The fact that the persuasive nature of "PR" as a first stage of professional development took a special place is also evident from Bernays's professional efforts. "Unlike Lee's model of public information, Bernays's model was essentially a model of scientific persuasion and, consequently, of specific perceptions, behavioral support. It included listening to the audience, but the purpose of the feedback was to create a more persuasive new message".[49] In his book, The Social History of Spin, Stuart Ewen quotes from Ivy Lee's speech at Columbia University School of Journalism in November 1921: "You have to study the emotions of people and all the

[45] V.A. Barishpovets „ИНФОРМАЦИОННО- ПСИХОЛОГИЧЕСКАЯ БЕЗОПАСНОСТЬ: ОСНОВНЫЕ ПОЛОЖЕНИЯ", Вычислительный центр им. А.А. Дородницына РАН, 2013 available here: https://cyberleninka.ru/article/n/informatsionno-psihologicheskaya-bezopasnost-osnovnye-polozheniya [L.s. 3.10.21].
[46] G. Tevzadze, "Why Do You Believe in God", Bakur Sulakauri Publishing House, 2017, p.6, available here: https://bit.ly/30vEKb2 [L.s. 3.10.21].
[47] Z. Kikvidze, G. Tevzadze "Evolution", Bakur Sulakauri Publishing House, 2015, p. 38-39. Available here: https://bit.ly/38u7F3Q [L.s. 3.10.21]
[48] E. Stuart. (1996). "PR! Social History of Spin". Basic Books. 1st ed. p.132.
[49] D. L. Wilcox, Glen T. Cameron, Public Relations - Strategy and Tactics, Diogenes Publishing, 2011.

factors that motivate people to persuade them in any area of functioning".[50] In addition, it is common knowledge that it is not natural for public relations practices to use persuasive communication to achieve fundamental goals. The use of persuasive communication to influence the behavior or mood of the target audience is also actively seen in the marketing of political communication. It was through the Elaboration of Likelihood Model created by Richard Petty and John Cacioppo in the 1980s that they explained the process of persuasive communication used to persuade consumers.[51]

Almost every stage of the promotion mix in marketing involves influencing customer behavior, ranging from advertising to personal sales. The latter refers to a form of relationship between two individuals, when the seller of a product tries to arouse the potential buyer's desire to buy the product: to convince them of the superiority of a particular product.

Persuasive Communication and Persuasion as a separate and/or separate subject are often found in various course syllabi. For example, the University of Florida College of Journalism and Communications course called "Digital Persuasive Communication" is designed for public relations and marketing professionals.[52] In the syllabus of the Eastern Illinois University course "Introduction to Public Relations", from the fourth week to the end of the course, it emphasizes the importance of persuasion and persuasive communication in the preparation of the message in the preparation of the narrative or message.[53] Persuasion, will also be found in the syllabus of the curriculum of a public relations course at Algonquin College, emphasizing on studying the basics of persuasion.[54] Barcelona's Universitat Pompeu Fabra's four-year undergraduate program in Advertising and Public Relations provides students with the opportunity to study persuasive discourses in three languages, among other subjects.[55] The Chartered Institute of Public Relations (CIPR)'s "Fundamentals of Public Relations" syllabus involves a special subsection of "Public Relations and Persuasion".[56]

Conclusion

We think that this could be the end of the discussion, which, in our view, clearly proves that the current definitions of strategic communications and the authors' reasoning do not form the basis for an independent theoretical framework for the profession, which in turn would end professional misunderstandings between disciplines.

Based on the research and analysis of the theoretical material used in the paper, we came to the conclusion that part of the views of the authors mentioned in the paper about the "StratCom" is even professionally confrontational. The reason for the misunderstandings between strategic communications and public relations specialties should be rooted in superficial approaches to the issue. We think that this paper has clearly shown the existence of a new, in-depth study that would once and for all answer the question: "So, what is strategic communications"?

[50] S. Evan, "PR! A social History of Spin", published by Basic Books, 1996, Chapter 7, p.132.
[51] R.E. Petty, J. Cacioppo The Elaboration Likelihood Model of Persuasion, published by Academic Press Inc., 1986, available here: https://www.researchgate.net/publication/270271600_The_Elaboration_Likelihood_Model_of_Persuasion [L.s. 03.10.2021].
[52] Dr. U. Kim, University of Florida College of Journalism and Communications, Course - MMC 6936 Digital Persuasive Communication (# 0961), 2016, available here: https://bit.ly/3qqSfDA [L.s. 3.10.21].
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[55] Bachelor's degree in Advertising and Public Relations – Syllabus- https://www.upf.edu/ [L.s. 3.10.21].
[56]Public relations fundamentals - https://www.cipr.co.uk/content/training-qualifications/student-resources/study-hub/advanced-certificate/syllabus [L.s. 3.10.21].

We think that this paper will be especially useful to those who has sincerely tried to see the difference between “PR” and “StratCom” in recent years. This publication will also be useful for the individuals who have been persistently arguing that “StratCom” is “PR” and/or vice versa.

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THE SO-CALLED "CYANIDE CASE" IN GEORGIAN MEDIA

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Abstract

Religion and related aspects are a very sensitive issue both in Georgia and in the world. Consequently, incorrect coverage of such issues may lead to the escalation of strong public controversy and conflicts. As the media is generally considered to be the best tool for shaping public opinion, the journalist must take into account ethical norms and relevant legislation in the process of covering these issues as well as be guided by internationally accepted standards of religious coverage.

Digesting religious topics and preparing a media product on related issues have become especially persistent in Georgia in recent years, as the number of religious crises and conflicts has increased significantly. In this regard, our paper is dedicated to exploring one of the crucial events in Georgia: the so-called "Cyanide Case". We will endeavor to reveal the angle from which the Georgian media covered the crisis.

As unimaginable as it may seem, it was the manner of the request for the accused clergyman to receive the rite of communion, including the making of this request by atheist celebrities at the rally, that triggered the discrimination against the church. It is noteworthy that after calling for providing Giorgi Mamaladze with the communion, the attack on the church continued with another request to make a demand to His Holiness and Beatitude Illia II of Georgia to mediate with the President to grant a pardon to the Dean in parallel with the deteriorating health of the clergyman. In due time, they were forced to at least acknowledge the power of the Patriarch's word. One could not easily forget one simple detail of Georgian law providing for the initiation of early release due to deteriorating health; though, the authors of this request needed to create the image of a persecuted person by the church through the arrested Dean.

Keywords: the "Cyanide Case"; the Patriarchal Throne; the Attack on the Church; the Patriarch in Germany.

Introduction

From time immemorial, from the day the universe was created, following the footsteps of the development of mankind, religion has been its accompanying event, which has its special significance and purpose in any civilization. Religion is a kind of philosophy of life that determines a particular action of humanity. Religion has existed at every stage of human development, continuously running through the history. The development of religion is closely related to the spiritual and intellectual development of man. While it may seem impossible for most of the earth's population to imagine themselves living without religion, many find it difficult to grasp the true meaning of religion.

Georgia has long existed at the crossroads of Eastern and Western religions: initially Mazdeism and later Islam. Thus, our country had to deal with mutually exclusive religions and cultures. Despite many difficulties, the Georgian nation had always aspired to Western culture. The Christian faith completely defined the way of

development of the country and the nation. On the road laden with these difficulties, our nation never broke under pressure, and on the contrary, it kept aspiring more actively to the religious-cultural domain to which it has forever committed itself.

Georgia is a multinational and diverse country, both culturally and religiously. Caravan roads used to run through Georgia at one time, which naturally contributed to its cultural and religious diversity. Greco-Roman and Oriental polytheism tried to established itself next to the rituals or customs present here. People of different faiths have lived here peacefully next to each other for centuries, leaving their unique traces in the history of the country.

Orthodox Christianity has been the national religion of Georgians for 17 centuries. The struggle for Orthodoxy was also considered a struggle for the survival of the Georgian nation and sustaining its national interests. However, in our country, for centuries, people of other religions had historically had a chance of peaceful living. No one was persecuted on religious grounds. People of different faiths kept leaving a worthy mark for centuries on the nation's development path.

The general picture of the religious situation in Georgia is as follows: the majority of the Georgian nation is Orthodox; a significant part of their fellow citizens is Muslim, while, recently, quite a small number of believers have joined other religious organizations.

Orthodox Christianity has been an integral part of the Georgian nation for centuries and it can be said that for almost 17 centuries this religion has been our national faith. The protection of Orthodoxy, for our ancestors, also meant the protection of the Georgian language and culture, the territory of the country and the national identity from the enemies.

Thus, religion, which is represented by the Georgian Orthodox Autocephalous Church, has played an important role in the spiritual and cultural development of Georgia. On both historical and permanent basis, it has had a special place in the development of the country at all times and it can be said that the state formation of Georgia is hard to be imagined without considering the stance of the Georgian Orthodox Church and their relations.

Given the importance of the Georgian Orthodox Church, it is not surprising that the media often take great interest in the Orthodox Church, and religious issues are most often on their agenda during religious holidays. No single orthodox holiday or important sermon is left out of the media spotlight. For example, on Christmas or Easter, the Patriarch's epistle, the liturgy, the preparations for the holiday, the best wishes sent out by the representatives of the political elite are covered separately.

Weekly sermons of the Catholicos-Patriarch of All Georgia, Orthodox holidays, miraculous stories of certain church members, events planned by the Patriarchate make up the general picture of the coverage of religious topics in the Georgian media. Recently, however, religiously conflicting situations have also become of particular interest.

The sense of responsibility among journalists becomes especially important in the process of covering religious crises. While preparing a media product regarding a very sensitive topic of religion and related topics, the journalist should pay special attention to the facts in order to provide the audience with the most balanced and unbiased information. When covering religiously conflicting or sensitive situations, the journalist should offer a healthy media product to the public in order not to form stereotypes and/or misinterpret the facts, which may contribute to the escalation of the conflict between religious groups. Media representatives should be able to avoid an escalation of such a situation.

Religion and related issues are a very sensitive issue both in Georgia and in the world. Therefore, incorrect coverage of these issues may contribute to the escalation of strong public and conflict. As the media is the best tool for shaping public opinion, the journalist must take into account ethical norms and relevant legislation in the process of covering these issues, as well as be guided by internationally accepted standards of religious coverage.

Digesting religious topics and preparing a media product on related issues have become especially persistent in Georgia in recent years, as the number of religious crises and conflicts has increased significantly. In this regard, our paper is dedicated to exploring one of the crucial events in Georgia: the so-called "Cyanide Case". We will endeavor to reveal the angle from which the Georgian media covered the crisis.

As part of our media monitoring, media outlets as well as the political sector and the clergy, were monitored. The daily news program and talk show of non-religious television were selected as the subject of monitoring. In particular, the monitoring was carried out on the following subjects:

- Public Broadcaster ("Moambe");
- Rustavi 2 ("Kurieri", "PS");
- TV Imedi ("Kronika",);
- TV Pirveli ("Daily News", "Reaction", "Nodar Meladze's Saturday").

Upon the media monitoring carried out within the framework of the research, it became possible to see a comprehensive picture of the "Cyanide Case" in the Georgian media. We hope that the existing material will facilitate discussions, which are mainly influenced by different interests and it will be possible to start a constructive dialogue between all stakeholders in terms of religion coverage, in order to improve the situation of the local journalism.

1. The Review of the „Cyanide Case"

Dean Giorgi Mamaladze is connected with one of the most obscure and scandalous cases in the recent history of Georgia. On February 12, the TV program "P.S." of Rustavi 2 started with information about the special operation carried out at the Tbilisi International Airport. The host of the TV program, Giorgi Gabunia, argued[1] that the state agencies did not comment on both the arrest of the cleric and the basis on which he was arrested. On the same day, it was reported that the head of the Patriarch's bodyguard, Soso Okhanashvili, who accompanied Ilia II to Germany, was immediately summoned to the Prosecutor's Office for questioning and returned to Berlin a few hours later. In Germany, Ilia II's protection was strengthened by the Special State Protection Service that had not previously protected the Patriarch. Giorgi Mamaladze was arrested while he was traveling to Germany to visit the Patriarch. Ilia II had undergone gallbladder surgery in Germany at that time and was undertaking a course of treatment. Giorgi Mamaladze was sentenced to pre-trial detention as a measure of restraint based on the decision of the Tbilisi City Court. Following dean Giorgi Mamaladze's arrest at Tbilisi International Airport on charges of plotting a murder before leaving for Germany, the investigation did not fully inform the public despite high public interest. The Prosecutor's Office also banned the cleric's

[1] G. Bochikashvili, "the Cyanide Case In Brief", 22.02.2017, Internet source https://on.ge/story/8054-%E1%83%AA%E1%83%98%E1%83%90%E1%83%9C%E1%83%98%E1%83%93%E1%83%98%E1%83%A1-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94-%E1%83%9B%E1%83%9D%E1%83%99%E1%83%9A%E1%83%94%E1%83%93 [L.s.25.03.2021].

lawyers from publishing their versions of the ongoing proceedings. Only the case witnesses spoke publicly about the details of the affair.

Following the information aired by Rustavi 2, the next day, on February 13, 2017, the Chief Prosecutor of Georgia held a press conference. According to Irakli Shotadze,[2] a poisonous substance, sodium cyanide in particular, was collected from Mamaladze's luggage, through which, according to the initial version, dean Mamaladze was planning to encroach the life of a high-ranking clergyman.

It is clear from the statement of the Prosecutor's Office that the investigation was launched on February 2, 2017, upon the application of certain citizen. An acquaintance of Dean Giorgi Mamaladze approached the Investigation Agency, claiming the archpriest had asked him to provide him with the poisonous substance of cyanide in a short period of time.

The press conference held by the Prosecutor's Office was followed by numerous public statements by members of the Georgian government, informing the public that His Holiness was safe and a great tragedy was avoided. According to the then-Prime Minister of Georgia, Giorgi Kvirikashvili,[3] "planned crimes against the country and a reckless attack on the church had been prevented." The Minister of Justice Tea Tsulukiani noted that Georgia avoided a great tragedy. The statement was also issued by the Administration of the President of Georgia,[4] stating that "it was planned to encroach the life of a high-ranking clergyman of the Georgian Orthodox Church". The first statement of the Prosecutor's Office, the assessments of the representatives of the authorities and the strengthening of the protection of the Patriarch in Berlin evoked the feeling that the main target of the possible crime was probably Ilia II.

Based on these statements, it is clear that at the initial stage of the investigation, the presumption of innocence of the ruling elite against Dean Mamaladze was violated, as their statements led to the formation of a sharply negative public attitude towards the cleric before the court ruled.

Later in the indictment, the assassination attempt on a high-ranking cleric was replaced by the name of Shorena Tetruashvili, the secretary of His Holiness and Beatitude Ilia II, which contradicts the initial statement that Tetruashvili is not a clergyman, much less a high-ranking one. The release of such contradictory versions by the prosecution may be explained by an attempt to cover up the details of the case, which would have allowed the agency to further maneuver.

Despite the Chief Prosecutor's contradictory statements, Bishop Iakob of Bodbe still focuses on the assassination attempt on His Holiness.[5] The patriarch's Diocesan Bishop also notes that the need to uphold the presumption of innocence is not necessary before the Lord.

"Thank you, Lord, for overcoming the very grave crime that would have brought the greatest curse upon our nation to kill our Patriarch. I say this because I have seen it from beginning to end. If they repent, absolutely

[2] Special briefing regarding the arrest of Archpriest Giorgi Mamaladze by Prosecutor's Office of Georgia, 13.02.2017, https://www.youtube.com/watch?v=4Fs-pSADC2E&t=2s, [L.s.25.03.2021].
Statement of the Prime Minister, Government of Georgia 13 February 2017 See here: http://gov.ge/index.php?lang_id=-&sec_id=462&info_id=59800, [L.s.25.03.2021].

[4] The official website of the President of Georgia, Statement of the President of Georgia, 13 February 2017, available here: https://www.president.gov.ge/geo/pressamsakhuri/siakhleebi/saqartvelos-prezidentis-ganckhadeba.aspx, [L.s. 25.03.2021].
[5] Imedi TV, Kronika, "Reverend Jacob speaks about the version of the assassination attempt on Patriarch", 18 April 2017, 20:20, https://imedinews.ge/ge/politika/10410/meupe-iakobi-patriarqis-mkvlelobis-mtsdelobis-versiaze [L.s.25.03.2021].

everyone will stand by them after repentance and we will share our part of their burden of that gravest crime", said Reverend Iakob in his sermon.[6]

Tbilisi City Court sentenced Mamaladze to 9 years in prison.[7] He is accused not of trying to poison the Georgian Patriarch himself, but Shorena Tetruashvili, his secretary and one of the most influential and odious figures of the Patriarchate. This verdict was upheld by the Tbilisi Court of Appeals. As for the Supreme Court, the highest court instance in Georgia, this entity did not accept the mentioned case in the proceedings at all. The cleric finds himself innocent. According to the prisoner, in addition to legal prosecution, he was sentenced to the most severe punishment by his own spiritual brothers: the Dean was denied of communion for two years.

2. The "Cyanide Case" in the Media

Were it not for media reports, including audio recordings, almost nothing would have been known about the so-called "Cyanide Case". A part of Soso Okhanashvili's testimony was broadcast by TV Pirveli[8] on September 8, and on September 26 other fragments of this testimony were also broadcast on TV Pirveli, but in the program "Reaction".[9] [10] The following became known from Okhanashvili's testimony:

- Shorena Tetruashvili, the secretary of Ilia II, brought a fortune teller to the Patriarchate to find a piece of sorcery and, as Okhanashvili maintains, a doll with needles was found. The Metropolitan of Chkondidi Petre commented on this, saying that Shorena Tetruashvili had recommended the fortune teller to become a nun.
- Shorena Tetruashvili wanted to bring the gallbladder of the Patriarch of the Orthodox Church, Ilia II from Berlin after the operation. Netgazeti contacted the patriarch's doctor, Tsisana Shartava, who said that one of the people in Germany really had such a desire, but could not remember exactly who it was.
- Shorena Tetruashvili asked Soso Okhanashvili for snake venom, which she needed to make medicine. Dean Giorgi Mamaladze says that Shorena Tetruashvili also asked him to find cyanide for her acquaintance goldsmith.
- Shorena Tetruashvili and Giorgi Andriadze, Chairman of the Supervisory Board of the Patriarchate University, arbitrarily housed Turkish citizens accused of terrorism in the house of Ilia II. In response to the accusations of the former head of the Patriarch's security, the chairman of the supervisory board of the Patriarchate University told Rustavi 2 that it was about the Lazs, who have ideological problems with the Turkish authorities and not with the terrorists. However, the Turkish ambassador to Georgia confirmed that one of the persons involved in this case was indeed wanted by the Turkish side on terrorism charges.
- Tetruashvili and Andriadze had also recommended Turkish citizens to obtain Georgian citizenship.
- According to Soso Okhanashvili, the head of the Special State Protection Service, Anzor Chubinidze, during his stay in Berlin, informed him in the morning that Dean Giorgi Mamaladze had been arrested

[6] Ibid.
[7] Imedi TV, "The judge has sentenced dean Giorgi Mamaladze to 9 years in prison", 05 September 2017, 12:08, https://imedinews.ge/ge/samartali/26253/mosamartlem-dekanoz-giorgi-mamaladzes-9-tslit-tavisupleb -agkveta-miusaja, [L.s. 25.03.2021].
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[10] TV Pirveli, Inga Grigolia's Reaction, https://www.myvideo.ge/v/3392010, [L. s. 25.03.2021].

and cyanide found, when officially, the cyanide extraction time is around 16:00. Netgazeti spoke to Anzor Chubinidze, head of the Special State Protection Service, who confirmed that he had indeed spoken to Soso Okhanashvili on February 10, although, according to Chubinidze, he had not told Okhanashvili that cyanide had been collected from the suitcase. Moreover, according to Chubinidze, at the moment when he was talking to Okhanashvili, he did not have confirmed information about the cleric's arrest at the Berlin clinic.

The full version of one of the main audio-video materials in the "Cyanide Case" was obtained by the "Kurieri" program and presented to the public on September 4.[11] We learn from the video recording obtained by Rustavi 2 that Mamaladze was asked to come to Berlin by Metropolitan Dimitri.

The "Kurieri" also obtained the full version of the conversation between the golden witness of the prosecution, Irakli Mamaladze and Dean Giorgi, which was recorded a week before the arrest of the cleric. It is known from the mentioned audio-video material that cleric Giorgi Mamaladze wishes to get rid of Shorena Tetruashvili.

The "Kurieri" revealed the following information:

- Dean Giorgi Mamaladze told Irakli Mamaladze that the Metropolitan of Batumi and Lazeti Dimitri Shiolashvili phoned him from Germany and asked to arrive. Dimitri Shiolashvili is the nephew of Ilia II. Moreover, Soso Okhanashvili is his son-in-law. The metropolitan later told Netgazeti that the communication between the dean and him had indeed taken place, but instead, the Dean wrote to him and asked for a blessing on arrival.
- Continuation of the episode of "getting rid" of Shorena Tetruashvili involves Dean Giorgi Mamaladze telling Irakli Mamaladze about the prophecy of Monk Gabriel, according to which Shorena Tetruashvili would be admitted to a psychiatric hospital after the death of the Patriarch and would never be back to the Patriarchate.
- According to the content of the telephone conversation between Dean Giorgi Mamaladze and Tara (Tato) Shavshishvili, a representative of the Patriarchate Security Service, before his arrest, the Archpriest told Shavshishvili that they had to apply to Archil Gamzardia, who had posted on Facebook about the plotting of Partriarch's assassination. Taras Shavshishvili told the "Kurieri" that the Dean had meant applying to the investigative agencies, the Prosecutor's Office, the Ministry of Internal Affairs and the State Security Service.

3. A different Version of the "Cyanide Case" by Gogashvili

Ioseb (Soso) Gogashvili,[12] former Deputy Head of the State Security Service, spoke about his own version of the "Cyanide Case". According to him, former Dean Giorgi Mamaladze, who was serving a sentence for preparing the assassination of Shorena Tetruashvili, the secretary of the Catholicos-Patriarch, should not have been the only one serving his sentence in prison because he had collaborated with the group. Gogashvili also accused Soso Okhanashvili, the former head of the Patriarch's security service, of preparing Tetruashvili's assassination.

[11] Rustavi 2, "Kurieri" 21:00, https://rustavi2.ge/ka/news/84130, [L. s. 25.03.2021].
[12] TV Pirveli, scandalous interview of Nodar Meladze with Soso Gogashvili, 13.02.2021, https://www.youtube.com/watch?v=SCvy5_TzRRA, L.s. 25.03.2021].

The former senior State Security Service official[13] believes that the investigation into the case should be resumed and is ready to play a role in this, including in cooperation with the investigative bodies. Soso Gogashvili says that getting rid of Shorena Tetruashvili had been attempted twice before the scandalous "Cyanide Case". According to him, Tetruashvili's elimination was planned in the fall of 2016 during the Patriarch's visit to Moscow, but the special services found out about it later.

He also talks about the "plan" to use cyanide in the German hospital where the Patriarch was admitted:[14]

"If Mamaladze had crossed the border with cyanide, he would have brought that cyanide and put it on the food that Shorena had to bring to the Patriarch. This would take place at the Helios Clinic in Berlin. At the moment of delivering the poison they would snatch it from her hands. Each corner of the clinic is equipped with cameras and they would also have left the cell phone cameras on as well just to ask her what she was brining. Once she would tell them it was the food, they would suspect something wrong and there would be panic, calling the "Helios" security service. The Berlin police would come, the Foreign Ministry would be informed, and ultimately in Europe, not Russia, the Patriarch's murderer Shorena Tetruashvili would be arrested. She would go to jail as the Patriarch's assassin. They would become heroes, as they would have saved the patriarch, getting rid of Shorena Tetruashvili, the ruler of the reverends, and they would be back to Georgia with their positions solidified. It was initially announced that the liquidation of the Patriarch, a high-ranking hierarch, was planned. This was stated by both the Prosecutor's office and the Prime Minister. When we discussed these materials, I was asked what I thought and I immediately said that the target was Shorena. Giorgi Kvirikashvili rebuked me, saying I held the wrong idea: "you cannot imagine how serious threat they poised to the country and the Patriarch". Apparently, he had more information from the Chief Prosecutor. They wanted to maintain their influence. If Shorena had been poisoned there, an investigation would have been initiated and some kind of version would have developed. The investigation there would find out where the food had come from and put a real investigation would go in that direction. That is, they would still be discredited and identified as criminals". "They did not intend to do that", said Soso Gogashvili, although he could not or did not specify where Giorgi Mamaladze had obtained cyanide.

According to him, Giorgi Mamaladze and the group collaborating with him had targeted not only Shorena Tetruashvili, but also the bishops, the archbishops, who, according to Gogashvili, were problematic for them.

According to the former high-ranking official of the SSS, Mamaladze's group deliberately started disseminating myths about Shorena Tetruashvili, as if she was "standing on a pedestal, giving instructions to the bishops who acted as she had told them".

Regarding the "Cyanide Case", he noted[15] that the authorities had successfully prevented the crime.

Conclusion

The internal controversies of the Georgian Church have been publicized: Who is going to replace Ilia II on the Patriarch's throne: Metropolitan Dimitri, Archbishop Iakob or any other high-ranking priest? According to the theologians, a number of unpleasant events inside the Georgian Orthodox Church during the recent period indicates that a furious struggle for the Patriarch's throne is taking place. Is the arrest of the Dean on charges of conspiracy to commit murder a result of this controversy? How or why is the state involved in this process?

[13] Ibid.
[14] Ibid.
[15] TV Pirveli, scandalous interview of Nodar Meladze with Soso Gogashvili, 13.02.2021, https://www.youtube.com/watch?v=SCvy5_TzRRA, [ღ. C. 25.03.2021].

What role do the Russian special services play in all this? Is this struggle related to the process of selecting the successor of Ilia II to the Patriarchal throne? This is an incomplete list of questions that are of interest to a large part of the Georgian society.

As unimaginable as it may seem, it was the demand for the accused clergyman to be provided with communion, including those known for atheistic sentiments, that stimulated the discrimination against the Church. It should be noted that after the communion of Giorgi Mamaladze, the attack on the church continued with another request to the Patriarch to mediate with the Georgian authorities to pardon Mamaladze as his health was deteriorating rapidly. When it suited them, they could recognize the power of His Holiness's word. They could not easily forget one simple detail: Georgian legislation provides for the initiation of early release proceedings due to deteriorating health, although the authors of this request needed to create the image of a persecuted person from the church through the arrested Dean.

The suspicious and inconsistent actions of Giorgi Mamaladze's associates make it clear that the "Cyanide Case" was invented to discredit the church from the very beginning. What enables us to say this? Despite the fact that Dean Mamaladze was being monitored, the Prosecutor's Office for some reason failed to determine from whom and under what circumstances the clergyman obtained the cyanide on February 2-10; The cyanide was allegedly collected from the luggage compartment of Tbilisi Airport after the Dean checked in and handed over his bag. However, there are no videos proving this evidence either. However, there are several surveillance cameras in the airport area. The dean himself says he was arrested in the car and was unable to get to the airport at all.

If we assume for a moment that such a horrible crime was being committed, obviously we all will agree that neither in terms of preparation nor in terms of execution, one person could not have committed it, especially the dean. We all have a question: who stands behind it all? What was the group this person collaborated with? Instead of the prosecution finding more solid evidence than the other alleged perpetrators, prosecutors say they could not even figure out from whom the dean obtained the cyanide. That is why the fact of collecting this substance from the deacon's luggage raises very big questions in the society.

Sodium cyanide is a toxic substance that absorbs oxygen when it enters the body and causes death; however, as the Georgian experience shows, cyanide may kill not only individuals but also a number of state institutions even without entering anyone's body. Cyanide and the "Cyanide Case" allegedly "broke" the health of the chairman of the Supreme Court of Georgia, who resigned after the court had refused to accept the "Cyanide Case" (The Case of Dean Mamaladze) into proceedings. However, the arrest of Dean Giorgi Mamaladze seemed to have a political undertone from the very beginning and to feel it, no special senses were needed.

Determining one's guilt, which, as a rule, should be within the competence of the court or the, is done through the active participation of government officials. The government is trying to demonstrate force on the church, which serves to discredit it. In fact, the authorities were not motivated by the aim of establishing justice in the case.

One of the main shortcomings of the case is how cyanide was found in Mamaladze's luggage. Mamaladze's luggage was collected at the airport only after he handed over the luggage. The luggage was searched without his presence just nine hours after Mamaladze was arrested. Moreover, this process was not filmed on video cameras. The airport surveillance camera recordings have also been destroyed.

The verdict was based only on the fact that Mamaladze was searching the Internet for information about cyanide. The verdict fails to substantiate why he was looking for this information and what he needed the cyanide for (According to Mamaladze cyanide is used in icon painting and that is why he was interested in it).

The verdict also maintains that the defense did not present any exculpatory evidence. However, the law does not oblige the defense to present evidence. Rather, it is the prosecution that must obtain evidence to prove that the accused is guilty.

Despite the high public interest, the lawyers were categorically forbidden to speak publicly about the details of the case. The court hearings were also closed without justification. As a result, the public has little information on the subject and the case is still unclear.

The presumption of innocence against Mamaladze was violated as statements against him were made by high-ranking officials from the moment of his arrest, thus leading to the formation of the public opinion that Mamaladze was guilty. Moreover, at first, without any evidence, it was said that Mamaladze was going to poison the Patriarch.

Representatives of the Prosecutor's Office and the government presented the situation as if the Dean was going to assasinate the Catholicos-Patriarch of Georgia with cyanide. But it soon became clear that cyanide was not intended for the Patriarch, but for a high-ranking clergyman. However, in the end, Dean Mamaladze was sentenced to 9 years in prison not for the murder of any cleric, but for the assassination attempt on Shorena Tetruashvili, the secretary of Patriarch Ilia II. At the same time, he was sentenced to nine years without investigation (court) to determine from whom Giorgi Mamaladze had obtained the cyanide. Moreover, the poisonous substance was collected from his baggage at the airport, when Mamaladze had lost control of the baggage. They were removed so that only police officers were present as witnesses; however, no video recording was attached to the protocol. In addition, the defense was denied access to the airport surveillance camera recordings and fingerprinting. However, neither the Tbilisi City Court nor the Appellate Court corrected the "shortcomings" during the investigation, and the Supreme Court refused to accept the case at all.

On February 10, 2017, the "collected cyanide" at the Tbilisi airport, would be enough to "kill" everyone, since the fight for the patriarchal throne weakens the church, state institutions (confidence to which has fallen sharply) and threatens the national interests of Georgia.

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LINGUISTICS OF MODERN GEORGIAN MEDIA

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Abstract

Modern mass media, as an important means of informing the public, determines people's consciousness, shapes their interests and determines the mood. It has also successfully incorporated the role of an educator from the very beginning. Thus, the media linguistics plays a special role in spreading the native Georgian language, as well as in raising the literacy rate of the population. Language is the main tool to guide human cognitive activity.

Although, there are many examples of media trying to comply with linguistic norms, modern broadcasting fails to maintain proper Georgian; digital media being particularly full of many linguistic and stylistic errors. It should also be noted that electronic media is the only source of information for many, especially the young people. Given the high social importance, journalists should be careful with dealing with the language.

The development and transformation process of mass media in the global information space is not only indirectly but also directly reflected, especially in the formation of the Internet media linguistics. The current social and political changes in the country have also affected the process of language deformation.

The scientific article deals with the influence of media language on the linguistic features of the Georgian society. It discusses the problematic issues of modern publicist thinking, focusing on the linguistic distortions that modern journalists are characterized with.

The speech problem of media representatives is topical, complex and large-scale. Their speeches are the basis of the communicative interaction of the society, contribute to the linguistic influence, national identity, mutual understanding of people, perception of the world.

The media significantly influences the value system, mentality and literary norms used in any society. Violation of literary norms, which is observed in modern Georgian media, has a negative impact on the audience and the level of literary competence of the speakers.

Keywords: mass media, mass media linguistics, media texts, literary norms, TV discourse.

Introduction

In addition to informing the public, the media is responsible for providing upbringing and education. Journalism has been entrusted with an educational mission since the day it was born. It plays a major role in shaping and guiding public opinion, people's consciousness and their views.

People's lives have been significantly changed with the age of electronic information and modern mass media. The media is increasingly encroaching all aspect of human life and even direct its path. The media determines

people's behavior, views and shapes their taste. Thus, journalists take a special responsibility in conveying each message, as the audience seems to absorb the words, sentences, phrases, and even the intonation.

Studies of Georgian linguistics, issues of spelling and Georgian literary norms are constantly underway. Many Georgian linguists and philologists have explored the above-mentioned issues and have accumulated interesting materials. But, albeit relatively little number of scholars ever argue about the spoken language of the media and linguistic errors. However, we do not know much about the specifics of the knowledge and experience journalists have accumulated in the field of modern Georgian media language and speech. This article is an attempt of such research and the solutions found to the mentioned issues serve as scientific novelty.

The subject of the research covers modern broadcasting and Internet media language and literary norms. The aim of the paper is to analyze the aspects of the language journalists and media representatives use, to determine the extent to which the media language exercises its influence on the linguistics of the audience and to review the linguistic situation in journalism. In order to achieve this goal, the information covered by the mass media will be analyzed by the method of content analysis and randomness; the nature of the errors will be identified and determined based on the solution of specific tasks:

- Based on the concept of speech culture developed by researchers, the main criteria for the speech of modern journalists and media people are determined;
- The impact of current processes in the Georgian language on the extent of journalists' literary skills will be discussed;
- Cases and main reasons for deviation from the norms of the Georgian literary language in the media will be studied;
- Recommendations will be offered to improve the journalist's speaking skills.

The structure of the paper is also conditioned by these tasks.

1. The Influence of Media on Linguistics

The language of the media plays an important role in spreading the Georgian linguistics, as well as raising the literacy rate of the population. On the one hand, mass communication complements the language; we are introduced to the current events through media channels. However, on the other hand, its influence changes linguistic norms, reducing the quality of linguistics. Though media was considered to serve as the gauge of the literary standards, nowadays it only distorts the language.

Language plays a dramatic role in determining the affiliation of a particular social or regional-ethnic community. A sense of the value of the mother tongue is a fundamental component of understanding the place that a person occupies in society. A language can be a valuable resource for an individual or group that needs to be maintained and reflected in their handling of that language.[1]

Mistakes are not uncommon in printed publications and online media; proper Georgian is rarely heard from the TV screen. Given the attitudes of young people, television, especially the Internet, is the only source and "light" in the world of information. Thus, the media should be careful with handing the Georgian language.

[1] K. Gabunia, "Linguistic Situation in Modern Georgia", International Journal of Multilingual Education, 2014, # 3, p. 46.

It is important for journalists not only to adequately cover current events and processes, but also to pay attention to the forms of expression, reflection and how well they write and speak on TV and radio or online media, since today they happen to be the ones who define the culture of modern audiences.

The problem of journalists' speech is topical for a number of reasons. It is their speeches that contribute to the linguistic impact, as the main means of communication is the native language. Communication with the media affects each person in all directions, not just the content of media programmes. This aspect naturally puts on the agenda the need to consider the impact of the language and style of media representatives on public awareness.

The development of modern Georgian media, the growth rate and character of media channels are conditioned by the current democratic, political, economic and social processes in the country. All these trends influence the language of all mass media, especially electronic media, as new challenges directly affect the purity of spoken language.

2. The Language of Modern Media

The linguistic change of the media is also conditioned by objective reasons: our language is a reflection of our own life. Also, in the 21st century, there is a danger of contamination of the language with foreign words and slang, and it is necessary to find a golden interval that will enrich the modern language with neologisms or foreign words and preserve the richness and diversity of the Georgian language.

The most important professional competence for Georgian journalists lies in the command of the Georgian language, involving the ability to express their opinions correctly, clearly, correctly, to adhere to the standards of speech, utilizing its resources.

For a person, language is not only a means of civic and professional communication, but also an information space, a cultural environment that creates and enhances national identity. That is why any media person, including journalist, or reporter must meet certain requirements, with proper speech and observance of linguistic norms, they must be exemplary for the audience.

Research has shown that journalists grossly violate the literary norms. On the one hand, this is a result of the editorial and speech policies of TV channels: presenters and reporters are required to read/speak quickly. On the other hand, establishing a general tendency to convey information in the form of speech leads to distortion of diction, words, sentences.

In the Georgian media space, we often find linguistically and stylistically incorrect texts as well as foreign words, which are difficult for most of the society to understand. The media language of the last decade is characterized by an abundance of words borrowed from foreign languages, mostly English, or rather American English. However, it is said that the language itself discards the necessary and retains only the necessary.

There have been many periods in the history of the Georgian language of adding foreign words. In everyday life various events and news take place and as a result, new words, terms enter the vocabulary. Today, everyone is familiar with the following words: "marketing", "dealer", "broker", "computer". With technical progress a number of words are spread around the world and settled in different languages, especially if no proper equivalent is not available in the host language.

We often hear the following words "weekend" (შაბათ–კვირა), "realization" (გასაღება, გაყიდვა), "inspiration" (შთაგონება), "monitoring" (შემოწმება, შესწავლა); "Fashion Week" (მოდის კვირეული),

"Creative" (შემოქმედებითი), "Deadline" (ბოლო ვადა), "Message" (შეტყობინება) on TV or Internet media whose equivalents available in Georgian.

In addition to barbarisms,[2] Georgian media also speaks grammatically incorrect language. The audience, often even unintentionally, imitates him. The viewer's ear is so accustomed to the linguistic mistakes made by journalists that sometimes even a number of mistakes go unnoticed.

In Georgian broadcast and network media we often find words ended in the "for" postpositions. For example, love for the homeland, respect for the elderly, faith in the future. Of course, these words are used without postpositions in genitive case.[3][4][5]

A number of linguistic-stylistic errors have been revealed due to the research, made by Georgian journalists. The author of the article also presents the most common mistakes in the format of "right/ wrong" and we did not find their translation appropriate due to linguistic peculiarities.

As for the phonetic changes, journalists are speaking at an increasingly fast pace from TV or radio, there are often cases of sound reduction, i.e. weakening of the sound and syllable, or its complete "loss". The intonation of Georgian natural speech and natural linguistic models are distorted.[6][7] Mistakes are made by journalists by ignoring the norms of intonation in narrative sentences, by incorrectly splitting phrases, distorting meanings, the lack of pauses between phrases.

It should also be noted that reporters constantly have to work under pressure and are overwhelmed by the abundance of information; however, they must definitely look for ways to correct errors in their speech.

It will not be easy to establish an ideal media speech, but specialists, teachers and, most importantly, journalists must unanimously realize that in order to maintain the dignity of this profession in the future, it is necessary to design and implement appropriate measures to address this problem. In order to improve the language of modern media, it is possible to involve consultant specialists in the process of training journalists more intensively and to train them in language skills. No less important is the promotion of linguistic knowledge in print and electronic media.

Conclusion

The media creates a special audiovisual effect influencing any individual. Thus, the issue of media responsibility before the public gets seriously raised.

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Unfortunately, the linguistic mistakes made by journalists do not seem to be noticed, even the ear seems to get accustomed to them. It is therefore important to focus on this problem, since incorrect word formations and mispronunciations settle into daily speech.

The research has shown that linguistically and stylistically flawed texts are often found in the Georgian media space. The so-called "borrowed words" are widely used in the speech of TV journalists. Apart from barbarisms, one can often hear/read words ending in "for" postposition on Georgian broadcasting and online media.

As for the phonetic changes, we can see the cases of weakening the sound and the syllable, or its complete "loss" in the speech of the journalists delivered on TV and radio at an increasingly fast pace.

The intonation of Georgian natural speech changes as does the natural linguistic models. Due to the lack of intonation norms, incorrect division of phrases, lack of pauses between phrases, journalists make mistakes in narrative sentences.

In order to improve the linguistic level, it is possible to involve consultant specialists in the process of training journalists more intensively into command of language. It is also necessary to popularize linguistic knowledge in electronic and printed media.

Solving problems requires a systemic approach. It is also important for the state to pursue a targeted policy for the protection and development of the language.

In conclusion, the aim of the research was not to investigate and evaluate all kinds of linguistic errors or shortcomings in the media from the position of a linguist. We tried to show the general picture seen through the eyes of a journalist, which presented the linguistic situation and tendencies in the Georgian media and defined recommendations for correcting the problem.

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POLITICAL SCIENCES

RUSSIA'S ENERGY EXPANSIONISM ON THE EXAMPLE OF NORD STREAM 2 IN THE EUROPEAN UNION

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Abstract

The modern world depends on energy, the consumption of which is increasing, while the use of resources is becoming more and more intensive. It should be noted that imperialist Russia makes excellent use of this opportunity, which is reflected in the expansion and strengthening of its sphere of political influence. As we know, all states hold energy policies based on national-strategic values and define national aspirations and priorities. Russia has a big amount of energy resources, which it uses quite purposefully. The main tool of the Kremlin's expansionist policy is energy policy, which opposes European integration and increases its own role in the international arena. Despite the fundamental radical differences between the democratic West and undemocratic Russia, they still manage to find common preventive-cooperative relations in terms of energy policy. A clear example of this is the energy relations between Russia and Germany, which are complex and perennial.

The Nord Stream 2 is a project of global importance that explicitly increases the EU's energy dependence on Russia, which may not prove as beneficial to the Brussels side as it may do to the Moscow side. Both Putin and his governance system are using their country's resources and geopolitics "dishonestly" to exercise considerable influence on political space around them, serving the national interests of Russia. Therefore, in the eyes of the developed West, Russia is perceived as an aggressor and an undemocratic country, which creates a negative political landscape for both the European Union and the international political arena. That is why such maneuvering of Russia is not positively understood by any of the powerful states of the world, as this very project is found to be an integral part of world politics. The United States also supports this view. The Nord Stream 2, followed by Brexit, is the first international project and it is literally a dynamic action on how the energy relations between the EU and Russia can be continued. At the current stage, Germany's political actions are more profitable and productive for Russia than for the EU, since this case carries the potential for the energy sector of the two parties to become more integrated.[1]

[1] K.O. Lang, K. Westphal, „Nord Stream 2 – A Political and Economic Contextualisation", Stiftung Wissenschaft und Politik, 2017 March, Available: https://www.swp-berlin.org/fileadmin/contents/products/research_papers/2017RP03_lng_wep.pdf [17.03.2021].

Keywords: European Union, Russia, Nord Stream 2, Energy Policy, Germany, Energy Expansionism.

Introduction

The 21st century has made it clear that much of the developed or developing world is dependent on energy. The topic becomes more pressing as soon as it concerns the relations between Russia and Germany in terms of energy sector cooperation. Energy is one of the most important emerging and functional sectors in the modern world, so every state strives to diversify its energy markets in order to take their energy security to a higher level.

Russia, one of the world's most powerful nations, has used its energy sector to pursue its national policies, which are unacceptable to the democratic world and not positively perceived in terms of the political-economic spectrum. The Nord Stream 2 project is one of the biggest manifestations of the deepening of energy relations between Russia and the European Union. Through this project, they are bound to become more interdependent in the future, regardless the fact that the Kremlin's strategic political postulate is to increase its energy exports to the EU member states. That is why the EU has recently been compelled to pursue a coherent anti-policy so that Russia cannot "abuse" energy exports.

The study of the energy relations between Russia and the European Union in the modern international political arena is crucial, as it determines the future friendly and national security system between the states in the international political arena. There are radically different opinions about this project. Some of the public believes that Germany should suspend its participation in the project, and this is due to the "political distrust" running through the history of Russian-German relations, while the proponents of the project, however, believe that Nord Stream 2 will bring more economic benefits to the country than political damage.[2]

Methodology

The aim of the research is to determine the prospects and consequences of political-economic influence in energy sector between Russia and the European Union for the European side, as energy is one of the main sectors of the modern world, taking geopolitical or geostrategic importance in the international political arena. Upon the urgency of the topic, the following research questions arise: 1. How does Russia's energy policy affect the European Union? 2. How does Russia use its energy resources for political-economic dominance?

While working on the topic qualitative-empirical research methodology is applied, in particular the case study method, based on our project of Nord Stream 2 discussed in the political and economic context. Secondary literature, in particular, foreign language articles and scientific papers, is discussed in depth for

[2] R. Korteweg, „Energy as a tool of foreign policy of authoritarian states, in particular Russia ", European Union, 2018 April 27, Available: https://www.europarl.europa.eu/RegData/etudes/STUD/2018/603868/EXPO_STU(2018)603868_EN.pdf [17.03.2021].

the comprehensiveness of the research topic. This research allows us to identify the main mechanisms characteristic of Russia's energy expansionism and to predict what challenges the EU may face. The research increases the public awareness of the issue, as the Georgian society suffers from a shortage of scientific material in this regard. The latter, some extent, damages the country's European integration process.

1. Russia's Geopolitical and Strategic Intentions in Energy Sector in the Modern Time Period

Russia's geopolitics is quite complex, while international relations are biased and have been reconstructed over the centuries. Since R. Kjellen, the Swedish scientist and politician, first used the term geopolitics in the 1910s, and further elaborated by the German scientist K. Haushofer, it has established itself as part of the practical philosophy of German nationalism from the second half of the same century. Despite its philosophical and political aspects, in the case of Russia, geopolitics is an ideal means of fulfilling its expansionist intentions. The ways in which foreign policy is carried out between states have changed over the centuries, the energy expansionism being one such example used by the Kremlin to pursue its strategic goals. However, Russia faces another strongest political-economic union, the European Union, also demonstrating great interest in energy resources. The European Union is using so-called "forced diplomacy" against Russia, sending Russia to feel non-dominant in the geopolitical spectrum. Consequently, Russia retaliates to gain a foothold in the world political-economic market, echoing in the devaluation of energy prices.[3]

In modern times, Russia's economic struggle for expansion is manifested through the form of a new project of Nord Stream 2. With the so-called "friendly format", Russia, using its energy resources, is trying to subjugate European countries, Germany in particular. About 25% of Germany's energy consumption involves natural gas: Russia, Norway and the Netherlands being the largest importers of it. Russia links to Germany by the two existing gas pipelines: the Yamal-European gas pipeline (32.9 billion m3) and the Nord Stream (55 billion m3).[4] Following the launch of the Nord Stream 2, the direct export of gas from Russia to Germany will increase twofold, so that Germany will no longer have to provide certain benefits to the transit countries, significantly reducing the expenses. The capacity of the Nord Stream 2 will be similar to that of Stream 1 (55 billion m3).[5] It should also be noted that about 40% of gas imported to Europe comes from Russia. Through attaching a less functional status to the Yamal-Europe gas pipeline, Russia deliberately and strategically tries to increase the energy dependence of both Germany and Europe. If Russia can really do that, it is possible that other EU countries, such as the Visegrad countries,[6] [7]will

[3] A. Goldthau, „Assessing Nord Stream 2: regulation, geopolitics & energy security in the EU, Central Eastern Europe & the UK", EUCERS, 2016 July, Available:

[4] J. Wettengel, "Germany's energy consumption and power mix in charts", CLEW, December 21, 2020, available at: https://www.cleanenergywire.org/factsheets/germanys-energy-consumption-and-power-mix-charts. [L. s. 17.03.2021].

[5] „GAZPROM "Official Web Page, „Germany-The biggest foreign buyer of Russian gas ", GAZPROM, Available at: https://www.gazprom.com/projects/germany/ [L. s.17.03.2021].

[6] See Footnote 4.

[7] J. Wettengel, „Gas pipeline Nord Stream 2 links Germany to Russia, but splits Europe ", CLEW, 2021 February 19, Available: https://www.cleanenergywire.org/factsheets/gas-pipeline-nord-stream-2-links-germany-russia-splits-europe [L.s.17.03.2021].

find themselves in a similar political-economic cheap trap. If it ever comes true, it can be said that the EU will lose this strategic battle with Russia. If we ever consider the Nord Stream 2 as a political entity, Russia's expansionist intentions will become clearer, as solidified by one of Ratzel's seven expansion laws: "the state expands by absorbing small political entities". [8]The idea of the economic project "Nord Stream 2" is an excellent means of energy expansion, which appeared in the country's leadership in 2018.[9] The dominant countries in this project are Russia and Germany. The Nord Stream 2, like the Nord Stream 1, is 1,230 kilometers long and supplies gas directly from Russia for export to Germany via the Baltic Sea. Due to similar structure and route, the gas pipelines are sometimes called the "twin gas pipeline". The underwater pipeline from the east of Russia joins the German coast, through the waters of Sweden, along the Baltic Sea, Finland and Denmark. Manufacturing the materials needed for the project began in Germany in 2016, and later in September 2018, for the first time, they were phased into construction. It should be noted that the construction of the Nord Stream 2 is not completed and is still underway. The project is estimated at $ 11 billion, 50% of which is paid by the Russian company Gazprom, being the sole shareholder, while 50% of the project is funded by European companies, including Wintershall and Uniper (German), Royal Dutch Shell (Netherlands), Engie (France) and OMV (Austria). As it is clearly seen, Russia and Germany share the common interests, while some EU member states and the United States remain opposed to deepening the relations between Russia and EU to avoid potential Russian energy dominance in international arena.[10]

2. How does Russia use energy resources for political dominance

The importance of Russia's geopolitical and strategic location and the territory rich in energy resources are driving its imperialist aspirations, leading to the formation of its foreign policy. Russia is one of the important actors in the world political arena, which plays the role of a regulatory state; consequently, powerful countries such as Germany, France, England have often made political and economic concessions throughout the history. Finally, a seemingly accountable Russian power in this format of concessions maintains a dominant position in the hierarchy of prestige. And yet, what is the political-economic and geostrategic significance of Russia in the modern times? Does it still have the strength of the past or it is closing the reins in its hands? It is a country that will always be able to maintain its strategic dominance, as it will resort to any format of expansive, diplomatic or military action against the states or organizations that will block it in the political arena. Russia identifies the EU as one of its opponents, and in modern times its next ideology is to introduce a political-economic imbalance in the union with the energy it uses as a means of manipulating the geostrategic economy. This is not an easy political path to take, as the EU is backed by the world's most powerful state, the United States. The latter's political position is also clearly reflected through the attitude towards the Nord Stream 2 developer and the sanctions imposed on the

[8] N. Chitadze, "Geopolitics", Universal Publishing House, 2011. p. 113
[9] GAZPROM's official website, Germany-The biggest foreign buyer of Russian gas, GAZPROM, available at: https://www.gazprom.com/projects/germany/ [L. s. 17.03.2021].
[10] A. Alania, „German-Russian Relations Examination on Case Study of "Nord Stream 2" Project", Journal of Young Researchers, 2017 July, Available: http://jyr.tsu.ge/index.php/Hoome/ebaut/ge/2/5 [L. s.17.03.2021].

Russian Federation, as the Nord Stream 2 project is one of the biggest niches in Russian energy expansion policy.[11] Germany's aspiration is a manifestation of the country's national interests; it is forced to receive "cheap gas" from the Russian Federation despite "tough" experiences in energy relations with this country. This includes the fact that gas supplies to Ukraine were cut off in 2009, leading to a 13-day power outage during the winter, which led to a 13-day energy collapse for 16 EU member states.[12] Low-priced gas supplied by the Kremlin is acceptable to Europe, projected to further strengthen Russia's economic and energy dominance and its leverage in the international arena. If successful, Russia, without any military confrontation, will be able to regain a superpower status through its energy resources and "commercial diplomacy", which will accelerate the process of realization of its expansionist aspirations.[13]

Conclusion

In the modern world, the importance of energy is at an all-time high. Developed and developing countries are trying to diversify energy markets and Germany is no exception. The case is interesting in that Germany is deepening energy cooperation with the Kremlin, which has historically been its sworn enemy several times. Russia's political intentions are known to the world, which is reflected in its foreign policy. North Stream 2 is a real manifestation of the targeted politicization of its own energy resources by Russia in order to make Europe more dependent on it. For their part, this process is perfectly perceived by the United States and certain European Union states, which express their attitude through imposing political and economic sanctions. Nevertheless, Russia manages to impress some of the EU's largest driving powers, such as Germany and France, with certain degree of "goodness". The North Stream 2 definitely increases the scale of Russia's influence in the European Union, which in some ways threatens the stability of the democratic world. That is why it is necessary to find forms of economic cooperation that will not be biased and will not harm European integration. It is important for the EU and individual states to take into account the foreign policy course, practices, intentions and aspirations of their partner countries.

[11] D. Elijah, „TOPIC PAGE: Nord Stream 2", ICIS, 2021 March 5, https://www.icis.com/explore/resources/news/2020/11/20/10463483/topic-page-nord-stream-2#:~:text=Nord%20Stream%202%20to%20launch,Angela%20Merkel%20on%2011%20January [L. s. 17.03.2021].
[12] The official website of NBC News, "Europeans shiver as Russia cuts gas ships", NBC News, January 6, 2009, available at: https://www.nbcnews.com/id/wbna28515983 [L. s. 17.03.2021].
[13] Ibid.

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2. Rem Korteweg, „Energy as a tool of foreign policy of authoritarian states, in particular Russia “, European Union, 2018 April 27, Available: https://www.europarl.europa.eu/RegData/etudes/STUD/2018/603868/EXPO_STU(2018)603868_EN.pdf [Last seen 17.03.2021].

3. Diane Elijah, „TOPIC PAGE: Nord Stream 2“, ICIS, 2021 March 5, Available: https://www.icis.com/explore/resources/news/2020/11/20/10463483/topic-page-nord-stream-2#:~:text=Nord%20Stream%202%20to%20launch,Angela%20Merkel%20on%2011%20January [Last seen 17.03.2021].

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9. “NBC News” Official Web Page, „Europeans shiver as Russia cuts gas shipments”, NBC News, 2009 January 6, Available: https://www.nbcnews.com/id/wbna28515983 [Last seen 17.03.2021].

10. Nika Chitadze, „Geopolitics “, Published by Universal, 2011. pg. 113.