

Ekaterine Kardava

Gori State University, Georgia

eka_kardava@yahoo.com

ORCID: 0000-0001-6732-5908

<https://doi.org/10.26881/gsp.2025.2.03>

Legal Approximation Aspects in the Field of Labor Law in Georgia

Introduction

Since the initiation of the European integration policy¹ in Georgia, labor law reform has been subject to changing and controversial approaches. The publicly and explicitly stated intention of coming closer to EU standards produced opposite results within the relevant legislation. This was demonstrated in the Labor Code of Georgia of 2006, later of 2010 (hereafter: LCG), which was far from European standards and frequently came under fierce national and international criticism. The period of 2012–2013 was pivotal, as it saw the beginning of major revisions in an effort to strengthen employee protection standards and come closer to international norms.² In 2014, Georgia and the European Union (hereafter: the EU) signed an Association Agreement³ (hereafter: AA), which stipulated Georgia's obligations in the field of labor law, namely, legal approximation with the EU labor directives and incorporation of International Labor Organization (hereafter: ILO) standards in national law and practice. The Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labor, and Social Affairs of Georgia formed the Department of Inspection of Labor Conditions in 2015. In 2019, important anti-discrimination amendments were made to the LCG.⁴ An Organic Law of Georgia on Occupational Safety was passed that same year.⁵ Labor legislation

¹ This refers to a period from 1996, when the Partnership and Cooperation Agreement was concluded between the EU and Georgia, 22.04.1996, https://ec.europa.eu/commission/presscorner/detail/en/PRES_96_97 [accessed: 2025.03.01].

² E. Kardava, *Georgian Labor Law Reform in line with the Requirements of the European Integration and Association Agreement*, Tbilisi 2018, pp. 6–26, 40–60, http://press.tsu.ge/data/image_db_innova/Eka%20Kardava.pdf [accessed: 2025.03.01].

³ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, 27.06.2014, [https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830\(02\)](https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:22014A0830(02)) [accessed: 2025.03.01].

⁴ Organic Law of Georgia on the Labor Code of Georgia, Legislative Herald of Georgia, consolidated version 28.01.–16.03.2021 (hereafter: LCG); see the dynamics of all amendments at the end of the text, <https://matsne.gov.ge/en/document/view/1155567?publication=26> [accessed: 2025.03.01].

⁵ Organic Law of Georgia on Labor Security, 19.02.2019, <https://matsne.gov.ge/ka/document/view/4486188?publication=2> [accessed: 2025.03.01].

underwent another major reform in 2020: changes were made to the LCG, the Law of Georgia on Labor Inspection⁶ was adopted, and new by-laws were approved.

Court practices have been developing in parallel to the above-mentioned legislative dynamics, leading to a greater level of homogeneity. Georgia launched more intensive information campaigns to raise awareness of labor rights. Civil society increased the number of projects focused on issues of labor law. In parallel, academic research developed in this field.

The positive assessment of several recent legislative improvements notwithstanding,⁷ It is of crucial significance that the alterations and amendments to labor legislation were examined in relation to the AA and, more specifically, in terms of compliance with the EU Labor Directives. The AA not only defines a range of obligations, but also requires the fulfilment of these obligations in terms of the principle of legal approximation. Legal approximation has specific forms, stages, and methods.

This article evaluates how ongoing changes in the field of labor law resonate with the idea of legal approximation according to the AA/DCFTA and whether the results are similar to European practice. It examines whether the numerous amendments to the LCG (twenty-six amendments) generate outcomes that solve the country's most acute and persistent problems and whether the effects are genuinely European.

Legal Approximation requires a complex approach and specific knowledge of EU law. It is of vital importance to fully comprehend the meaning of the EU Labor Directives and understand them in terms of their application in European practice and their interpretation in the judgements and decisions of the Court of Justice of the European Union (hereafter: CJEU). To this end, it is crucial that legislative amendments be preceded by relevant activities of comparative legal research: review of the national laws of the EU Member States, analysis of administrative practices, study of monitoring and execution policies, study of relevant CJEU cases, and, based on projecting the complete picture of the EU, the implementation of an effective, efficient, efficacious, and achievable policy for the incorporation of European standards in Georgian national law and practice. Thus the main question is: Is such a format applied to the process of legal approximation in the field of labor law in Georgia?

This article contains a general description of the obligations imposed by the AA in the labor field; it discusses the definition of the concept and meaning of legal approximation; it compares the LCG norms with EU directives and analysis compliance; it provides a general characterization of the Europeanization and democratization of Georgia's labor law developments.

⁶ Law of Georgia on the Labor Inspection Service, 29.09.2020, <https://matsne.gov.ge/en/document/view/5003057?publication=0> [accessed: 2025.03.01].

⁷ European Commission, *Association Implementation Report on Georgia*, Brussels, 5.02.2021, pp. 4–5, 12–13.

1. Labor Law in the Association Agreement

1.1. DCFTA and labor law

Issues associated with labor policy are, in the first place, stipulated in the Deep and Comprehensive Free Trade Area Agreement (hereafter: DCFTA), and, more specifically, in Chapter 13 of Title IV (of the AA), “Trade and Sustainable Development.” The major focus here falls on the principle of sustainable development, and, more precisely, on the significance of reciprocal balance and supportiveness among trade, social, and environmental goals.⁸ The chapter stresses the important effect of labor standards and decent working conditions on economic efficiency, innovations, and productivity. It demands: coherence between trade policies, on the one hand, and labor policies on the other (Art. 231.a); achievement of a high level of labor protection and the improvement of law to this end (Art. 228.2); and implementation of the fundamental conventions of the ILO, and its priority and other conventions in Georgian national laws and practices (Art. 229.3). Thus, the development of international trade should be promoted in a way that recognizes full and productive employment and decent work for all (Art. 229.1).

Apart from the above-mentioned, the DCFTA stresses that the Agreement between Georgia and the EU foresees the importance of working together on trade-related aspects of labor policies, which means cooperation in the following areas:

- methodologies and indicators for trade sustainability impact assessments;
- the impact of labor regulations, norms, and standards on trade;
- the impact of trade and investment rules on labor law, including on the development of labor regulations and policy (Art. 239(b)(c)).

1.2. Social policy and labor law

Social policy goals are stipulated in the AA’s Title VI, Chapter 14, “Employment, Social Policy, and Equal Opportunities.” It is noted here that appropriate conditions should be provided to ensure decent working conditions, to protect health and safety at work, to encourage social dialog, gender equality and anti-discrimination, to support corporate social responsibility, and thereby to contribute to the creation of more and better jobs, the reduction of poverty, enhanced social cohesion, sustainable development, and an improved quality of life (Art. 348).

In order to achieve the above-mentioned objectives, Georgia must ensure legal approximation to forty (40) EU directives. These directives are listed in the AA’s Annex XXX: eight directives in the field of labor law (contractual terms); six directives for combatting discrimination and supporting gender equality;⁹ and twenty-six directives for safety and health at work. The annex defines individual dates for the

⁸ See: n. 3, Title IV, Chapter 13.

⁹ See: n. 3, AA, Annex XXX.

implementation of each of the above-mentioned directives. It is noteworthy that Annex XXX was subject to the enactment of provisional application. Therefore, in the field of labor law, the timeline for fulfilling obligations runs from 2014 (and not 2016, when the AA fully entered into force).¹⁰

1.3. The essence of legal approximation according to the Association Agreement

Legal approximation means the bringing of Georgia's legislation closer to that of the EU. Based on the interpretation of the AA's provisions, legal approximation has its forms, stages, and methods.

1.3.1. Forms of legal approximation

According to the AA, legal approximation is divided into two forms: gradual approximation and dynamic approximation. Gradual approximation implies the fulfilment of approximation obligations in accordance with the timeframe and the content specified and provided in relevant annexes (for labor law – in Annex XXX).

Article 417. Gradual approximation

Georgia shall carry out gradual approximation of its legislation to EU law as referred to in the Annexes to this Agreement, based on commitments identified in this Agreement, and in accordance with the provisions of those Annexes. This provision shall be without prejudice to any specific principles and obligations on approximation under Title IV (Trade and Trade-related Matters) of this Agreement.

Dynamic approximation requires Georgia to approximate to valid EU laws/norms. Law is dynamic in its nature. It may be abolished, changed, amended, and, therefore, it is vital to revise the AA's Annexes upon the alteration or abolishment of the EU laws quoted in it.

Article 418. Dynamic approximation

In line with the goal of gradual approximation by Georgia to EU law, the Association Council shall periodically revise and update Annexes to this Agreement, including in order to reflect the evolution of EU law and applicable standards set out in international instruments deemed relevant by the Parties, and following the completion of the respective internal procedures of the Parties, as appropriate. This provision shall be without prejudice to any specific provisions under Title IV (Trade and Trade-related Matters) of this Agreement.

Definitions of both forms of legal approximation strongly indicate that provisions for the definition of legal approximation shall not prejudice any principles and obligations of the AA's title IV (that is, DCFTA). This should be interpreted as follows: in any field in

¹⁰ See: n. 3, AA, para. 3 and 5 of Article 431 with the combination of Council Decision of 16 June 2014 on the signing, on behalf of the European Union, and provisional application of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (2014/494/EU), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014D0494> [accessed: 2025.03.01].

which legal approximation should take place, including in the field of labor law, policy and legal regulation should be considered and evaluated in a complex and combined way (not narrowly and fragmentarily) along with trade and economy policy. Further, there should be a strong correlation and synchronization of obligations between the titles of the AA (this case, between Social Policy and the DCFTA).

1.3.2. Stages of legal approximation

Legal approximation has three major stages: 1. the stage of legislative changes/legislative process, when European standards are incorporated in Georgian legislation either through relevant amendments or the adoption of new laws; 2. the implementation stage, when new (pro-European) Georgian norms/laws legally enter into force and start to apply in practice; and 3. the enforcement/execution stage, when the state establishes European-like administrative practice, begins to monitor the application of new norms/laws, checks and examines practice, identifies violations and responds relevantly, and conducts activities aimed to ensure good practice, etc.¹¹ To this end, permanent progress monitoring of legal approximation is of vital importance:

Article 419. Monitoring of approximation

1. Monitoring shall mean the continuous appraisal of progress in implementing and enforcing measures covered by this Agreement.
2. Monitoring shall include assessments by the EU of the approximation of Georgian law to EU law as defined in this Agreement, including aspects of implementation and enforcement. These assessments may be conducted by the EU individually on its own initiative [...] by the EU in agreement with Georgia, or jointly by the Parties. To facilitate the assessment process, Georgia shall report to the EU on progress in approximation [...].

1.3.3. The method of legal approximation

Method of legal approximation implies the confirmation of compliance of Georgia's legislation with the EU law (in this case, in terms of labor law) and the availability of procedure that provides evidence-based and reasoned description of what amendments/laws are initiated and how each new Georgian provision corresponds with the EU laws (table of correspondence¹²).

2. Several aspects of the Europeanization of Georgian labor law

The sustainable development principle stipulated in Chapter 13 of the DCFTA directly resonates with the AA's framework of main principles of political association, on the one hand, and, on the other, the AA's social policy objectives. Protection and respect

¹¹ E. Kardava, *EU, Association Agreement and Legal Approximation, JM Module "EUEAA"*, Georgia 2023, <https://www.gu.edu.ge/uploads/other/14/14341.pdf> [accessed: 2025.03.01].

¹² See: n. 3, AA, Annex XI-A, part II, 2.2.

of human rights and fundamental freedoms lie at the heart of political association and economic integration and form the basis of the domestic and external policies of the Parties [the EU and Georgia].¹³ In turn, labor rights are a cornerstone of human rights protection policy as the modern person acquires capital from labor relations and, thus, satisfies his/her personal spiritual and material needs, builds a family, and pays taxes, etc. This means that any context of European integration excludes social dumping, as that will lead to the deterioration of human rights policy and to a decline in the fulfillment of political criteria. Thus, Georgia has to consider these political and social criteria in trade policy. Further, social policy should integrate the principles of freedom of entrepreneurship and of the free market economy.

Labor rights combine and unite the AA's three main pillars of political, economic, and social goals. Therefore, it is essential that the above-mentioned imperatives and correlation between different parts of the AA be appropriately understood in Georgia in the ongoing process of legal approximation and labor law development. Such an approach is not revealed in the process of legal approximation and is not documented or based on facts in Georgia.

As mentioned in the introductory part of the article, EU standards have been gradually incorporated in Georgia's labor legislation since 2012–2013. Since 2012 (thus over twelve years) the LCG has been amended twenty-six times, which sounds impressive. None of these amendments, however, has concerned either the most substantial and defining aspects of labor, or the country's most acute and persistent problems that have been recognized for decades. These problems are:

1. Time limit for overtime work per week, per working day, or per any other period of reference. An upper limit for overtime work has not yet been established. According to the LCG, overtime work is work performed by an employee for a period of time longer than the standard working time: longer than 40 hours a week or longer than 48 hours a week in enterprises with specific operating conditions (LCG, Art. 24.1, 24.2, 24.3, 27.1).¹⁴ Nothing is established as to when overtime work should stop. The only deterrent is a 12-hour break between working days. This kind of legal approach greatly jeopardizes any decent working conditions for an employee and any balance between professional life and private/family life. (Seventy-five working hours a week including overtime would be legal in Georgia.).
2. Regulation of remuneration for overtime. According to the LCG, any increase in salary/wage rate (even by one GEL) still remains legal in Georgia. The LCG also ignores the ILO's position that overtime pay should be paid for at an increased rate of remuneration of at least twenty-five per cent.
3. Standards in maternity leave payment. Legal regulation of maternity leave for women employed in the private sector is such that the current situation diverges too

¹³ *Ibid.*, Art. 2(1,2).

¹⁴ Organic Law of Georgia on the Labor Code of Georgia, 2010, Legislative Herald of Georgia, consolidated version, <https://matsne.gov.ge/en/document/view/1155567?publication=26> [accessed: 2025.03.01].

far not only from the principle of decent working conditions, but also from decent living standards for mothers and children.¹⁵

4. The issue of the minimum wage. The standard of 1999 is still in force in the private sector, that is 20 GEL per month¹⁶ (about 6.5 USD per month).

Working time and remuneration are primary, fundamental, doctrinal, and historic aspects of labor law and labor relations. Thus, due regulation of working time and payment matters is a precondition for the decent realization of not only labor rights but also of other human rights. This is a particularly important issue to note if one is to measure the improvement of people's welfare in terms of changes and alterations in labor law. The Georgian people are left with a fairly legitimate and natural question as to why the process of European integration over many years has not produced tangible benefits in terms of employment and labor, when it should have eradicated poverty and supported personal development and family empowerment.¹⁷

2.1. The context of the stages of legal approximation

Currently, Georgia has ratified eighteen (18) of the ILO's fundamental, priority, and other conventions.¹⁸ The LCG incorporates the provisions of EU labor directives with regard to contract terms and conditions, anti-discrimination, and safe labor (occupational safety), namely: 91/533 (abolished/replaced by Directive 2019/1152); 1999/70, 97/81, 91/383, 98/59, 2001/23, 2002/14, 2003/88, 2000/43, 2000/78, 2006/54, 92/85, 79/7, 89/391.¹⁹

¹⁵ E. Kardava, *Commentary on Title VII of the Labor Code of Georgia (Maternity Leave)*, Tbilisi 2023, pp. 407–442; *eadem*, *Compliance of Georgian Labour Legislation with EU Labour Law: Decisions and Challenges Regarding Maternity Leave*, Tbilisi 2024, pp. 5–57, [https://cu.edu.ge/files/Docs/2024/grant%20project/europlants/Publikacia_P2%20\(1\).pdf](https://cu.edu.ge/files/Docs/2024/grant%20project/europlants/Publikacia_P2%20(1).pdf) [accessed: 2025.03.01].

¹⁶ Edict of the President of Georgia on the Minimum Wage, 4.06.1999, <https://matsne.gov.ge/ka/document/view/112786?publication=0> [accessed: 2025.03.01].

¹⁷ E. Kardava, K. Yarmolyuk-Kröck, L. Palihovici, *Too Little, Too Slow: Why Employees in Georgia, Moldova, and Ukraine Do Not Benefit from the EU Association Agreements*, Kyiv 2019, <http://library.fes.de/pdf-files/bueros/kiew/15773.pdf> [accessed: 2025.03.01].

¹⁸ E. Kardava, *Employees' Rights – International Approaches, AA obligations, Georgian Reality, Correspondence with Europe*, CSR DG, the EU for Georgia 2018, pp. 12–33, <https://www.asocireba.ge/files/Eka-Kardava-Labor-rights-2018.pdf> [accessed: 2025.03.01]. Fundamental Conventions: C087 – Freedom of Association and Protection of the Right to Organise Convention; C098 – Right to Organise and Collective Bargaining Convention, 1949; C029 – Forced Labor Convention, 1930; C105 – Abolition of Forced Labor Convention, 1957; C138 – Minimum Age Convention, 1973; C182 – Worst Forms of Child Labor Convention, 1999; C100 – Equal Remuneration Convention, 1951; C111 – Discrimination (Employment and Occupation) Convention, 1958. Priority Conventions: C122 – Employment Policy Convention, 1964. Other Conventions: C052 – Holidays with Pay Convention, 1936; C185 – Seafarers' Identity Documents Convention (Revised), 2003; C151 – Labor Relations (Public Service) Convention, 1978; C181 – Private Employment Agencies Convention, 1997; C088 – Employment Service Convention, 1948; C117 – Social Policy (Basic Aims and Standards) Convention, 1962; C142 – Human Resources Development Convention, 1975; C163 – Seafarers' Welfare Convention, 1987; C144 – Tripartite Consultation (International Labor Standards) Convention, 1976.

¹⁹ See: n. 3, AA, Annex XXX. Labor Law: Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment

With regard to the above-mentioned, the legal approximation stages of legislative changes and implementation largely have been accomplished; however, monitoring LCG's performance and administration of its enforcement stage began belatedly. For example, the Labor Inspection Service (hereafter: LI) has had the mandate to monitor the implementation of the LCG's provisions as of 1 January 2021. Therefore, from 2012–2013 to 2021, it has been impossible to conduct the third stage of legal approximation as no public body has monitored the execution of norms and established practice. For a very long time, the standards and provisions of the labor law were entirely abandoned to self-regulation. A court proceeding was the only mechanism left; however, such disputes/litigation were protracted in the past, and still are in Georgia, which is hardly beneficial to either employees or employers. Currently, the LI has an extensive mandate to examine not only the safety and health of employees, but also the contractual terms and other labor conditions of employees. The LI may charge an employer with violations of the LCG; this is a rapid, non-expensive, and efficacious means. In fact, this new approach in the LCG indicates that a mechanism has already been put in place to start the practice of administration similar to the European standard. Regardless of this, however, the application of this mandate and the effectiveness of the enforcement stage of legal approximation require separate assessment in the future (as not enough time has passed from 1 January 2021). From 2021, during the COVID-19 pandemic, the

relationship; Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP; Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC – Annex: Framework agreement on part-time work; Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed- duration employment relationship or a temporary employment relationship; Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies; Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or Businesses; Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community – Joint declaration of the European Parliament, the Council and the Commission on employee representation; Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organization of working time. Anti-discrimination and gender equality: Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation; Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC); Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. Health and Safety at Work: Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

LI's was largely focused on monitoring COVID-19 related regulations.²⁰ There are also sectors of labor for which the inspection or monitoring of labor conditions still have not been reformed.

2.2. The context of the legal approximation method

Achieving the goals of each of the above-mentioned directives should undergo confirmation procedures to demonstrate that they correspond with the content and scope of respective directives. To this end, an amendment was introduced to the Georgian Organic Law on Normative Acts²¹ in 2019, according to which each draft-law and draft by-law which arises out of the AA, shall be compulsorily accompanied with a table of correspondence (see Annex I and Annex II of this article). This table should give evidence of the compliance of every new provision in Georgia's laws with the content of each provision of the relevant EU directives. Thus, a new legislative technique has been established in Georgia.

Completing the table of correspondences is a complex and difficult task. First, all EU laws that are being approximated to, must be translated into Georgian. According to the AA:

When preparing tables of correspondence, the following shall be taken into consideration: The EU acts shall serve as a basis for preparation of a table of correspondence. To this end the version in force at the time of approximation shall be used. Particular attention shall be paid to precise translation into the national language, as linguistic imprecisions may lead to misinterpretation, in particular if they concern the scope of the law.

Filling out the table of correspondences implicitly requires comparative legal research, including a study of the CJEU's practice in the interpretation of EU laws and respective provisions, as well as solid and reasoned evidencing of the compliance of the Georgian norms with the Directives' provisions to avoid any unintentional misinterpretations of the content and scope of the relevant EU law. Thus, preparing the table of correspondences and also the legislative process requires the involvement of professionals well versed in EU law, legal approximation, the AA/DCFTA, EU languages, and with the ability to conduct comparative reviews. Thus, the public sector has to have adequate, relevant human resources and must possess institutional memory. In addition to academics and judges, specialists in EU law should be invited to become involved in the relevant discussions to participate in the legislative process. Such an approach is unfortunately rare in Georgia.

Implementing the ILO's conventions and approximation to the standards of the EU labor directives should jointly respond to those goals and objectives that are set by the AA (see above, Chapter 13 of the DCFTA and Chapter 14 of the VI title). Georgia still

²⁰ <https://lio.moh.gov.ge/index.php?lang=2&id=&uid=202301080022207242784372> [accessed: 2025.03.01].

²¹ Article 17, Annex 1, Organic Law of Georgia on Normative Acts, 22.10.2009, consolidated version, <https://matsne.gov.ge/en/document/view/90052?publication=34> [accessed: 2025.03.01].

does not have a methodology and appropriate indicators for evaluating the impact of labor regulations and standards on trade and the impact of investments on labor law. Moreover, neither the table of correspondence, nor any other documents can assess the evidence for the correlation of labor law changes with the DCFTA's goals and provisions and their mutual balance, but it is notable here that the Government of Georgia approved its ordinance on Regulatory Impact Assessment (RIA) Methodology²² in January 2020, according to which changes in the LCG have shall be preceded by the preparation of a relevant RIA report.

2.3. The context of gradual and dynamic approximations

As was stated in the introduction of this article, reforms in the field of labor should be examined in the legal approximation context and outcomes should be checked as to whether they really solve existing problems in Georgia. In this regard, the following issues and legal facts (as presented below) may be particularly useful for verifying and monitoring the implementation of AA requirements in labor law against the background of the current circumstances in Georgia.

Within the context of gradual approximation, obligations stipulated in Annex XXX are not always fulfilled in accordance with the defined timeframe, and there are cases of delay. For example, according to the AA, Directive 2001/23 relating to safeguarding employee rights in the event of transfers of undertakings or businesses or parts of undertakings or businesses had to be implemented within five years. The period for the fulfilment of obligations commenced in 2014, which means that the Directive's standards had to be reflected in both national law and national practice by 2019. Implementation of Directive 97/81 concerning the Framework Agreement on part-time work was expected within a four-year period (that is, by 2018); Directive 98/59 relating to collective redundancies should have been implemented within five years (that is, by 2019). There are other relevant examples. Provisions of the above-mentioned directives were introduced in the LCG fairly late: on 29 September 2020. It is important to underline the fact that Georgia was obliged to undertake the approximation to the above-mentioned EU labor directives in the 2004–2006 period, at the time of the Partnership and Cooperation Agreement between the EU and Georgia (PCA); however, most of these requirements remained unfulfilled.²³

Apart from the violation of due dates, there are other cases of performance failure and/or discriminatory performance relating to the content of obligations. For example, Directive 92/85 concerning the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently

²² Ordinance of the Government of Georgia No. 35, 17.01.2020, <https://matsne.gov.ge/document/view/4776100?publication=0> [accessed: 2025.03.01].

²³ National Program for Harmonization of Georgian Legislation with the European Union Legislation (Guidelines for Action Plan), Government of Georgia, GEPLAC, 2003, <https://web-api.parliament.ge/storage/files/shares/Komitetebi/evrointegracia/oficialuri-dokument/saq-evrop-harm.pdf> [accessed: 2025.03.01].

given birth or are breastfeeding (Maternity Leave Directive) had to be implemented within four years, that is, by 2018. One of the fundamental norms of the Directive relating to payment for maternity leave is not included in the LCG. (The payment must be an adequate amount and take into account the normal wage rate.) The LCG regulates private labor relations. Notably however, the standard of the directive is observed in Georgia's Law on Public Service, which regulates public labor relations. The consequences, therefore, are the following: women employed in the public sector receive maternity leave payment which is equal (adequate) to their normal wage rate²⁴ in accordance/compliance with Articles 11.2("b") and 11.3 of the Directive.²⁵ However, all women in the private sector are given a meagre and fixed amount for maternity leave of no more than 2,000 GEL (about 740 USD), with no regard paid to individual rates of salary, for 183 or 200 days in total. This relates to leave for pregnancy and childbirth (maternity leave) and leave for childcare.²⁶ This is the case for both the public and the private sectors when the state budget is the source of funding.²⁷ As a result, EU standards have been established in Georgia in a discriminatory manner, according to the sectors of employment. The budget (taxpayers' money) duly pays women employed in the public sector and provides decent maternity leave, while women employed in the private sector receive degrading payments from the state budget.

This is not the only issue which is not approximated to with regard to Directive 92/85. An obligatory/compulsory period of maternity leave (Art. 8.2) is not provided for in the LCG. On the contrary, in Georgia pregnant women and women who have just given birth are fully free to decide to apply for maternity leave or not. Thus, because

²⁴ Article 64.2, Law of Georgia on Public Service, 27.10.2015, <https://matsne.gov.ge/en/document/view/3031098?publication=35> [accessed: 2025.03.01]: "183 calendar days of a maternity, or 200 calendar days in the case of complicated childbirth or twin birth, shall be compensated. Compensation shall be paid from the budget of the public institution concerned based on the officer's official salary and class-based increment, and an officer with a military rank or a special rank shall be paid a length-of-service increment and a rank salary in addition to his/her official salary."

²⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01992L0085-20190726> [accessed: 2025.03.01]: "[...] the following must be ensured: maintenance of a payment to, and/or entitlement to an adequate allowance for, workers within the meaning of Article 2. [...] the allowance [...] shall be deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health, subject to any ceiling laid down under national legislation."

²⁶ Governmental Order #33, 24.01.2023: "The amount of monetary assistance to be given during the period of paid leave due to pregnancy and childbirth and paid leave due to child care, as well as paid leave due to the adoption of a newborn baby shall be determined by a total of no more than 2,000 (two thousand) GEL" Labor Code of Georgia, Article 37: "An employee shall, upon her request, be granted paid maternity leave of 126 calendar days, and in the case of complications during childbirth or the birth of twins, maternity leave of 143 calendar days. [...] An employee shall, upon his/her request, be granted child-care leave. [...] 57 calendar days of the parental leave shall be paid."

²⁷ E. Kardava, *EU Labor Standards in Georgian Law and Practice, Georgian Labor Code vs Georgian Law on Public Service*, Tbilisi 2018, https://southcaucasus.fes.de/fileadmin/Publications/2018/workers-eng-booklet_23-09-18.pdf [accessed: 2025.03.01].

of the low level of benefit, employees in the private sector often do not even take maternity leave.

It has been already mentioned that Georgia is set to approximate to the EU's current norms and regulations as part of its dynamic approximation process. Therefore, if an annex of the AA mentions an abolished directive, that same annex shall be accordingly updated/revised based on the requirements of dynamic approximation. By the time of LCG's latest grand revision (2020), Directive 91/533 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship, which is mentioned in Annex XXX, had been abolished and replaced in 2019 in the EU by another Directive 2019/1152 on transparent and predictable working conditions in the European Union. Regardless of this, however, in 2020, the draft-law's explanatory notes and table of correspondence evaluated the level of approximation to the old directive, and the new directive was not even mentioned.²⁸ Most probably, updates were not verified as part of the dynamic approximation process because of a lack of the knowledge about Article 418 of the AA.

There is another type of problem in Georgia, namely, implementing legislative changes in the name of convergence with the EU legislation, when the innovation actually has nothing to do with the EU standard. This involves deceiving and misleading Georgian society. For example, in 2020, unpaid internships were established in Georgia as a legal imperative, and this was justified as bringing about correspondence to EU standards.²⁹

Conclusions

The aim of this article is to illustrate how ongoing changes in the field of labor law resonate with the essence of legal approximation, and to discuss whether the outcomes are similar to relevant European practices. Notwithstanding the numerous changes in the LCG and evident progress in this regard, which demonstrates a strong desire for approximation to EU standards, updates do not always indicate that:

1. Georgia has met due dates of approximation according to the AA annex (in the context of gradual approximation);
2. Georgia has observed aspects of approximation in terms of content (in the context of gradual approximation);
3. Georgia has achieved approximation to valid norms currently enforced in the EU (in the context of dynamic approximation);

²⁸ Explanatory note to the amendments to the Labor Code of Georgia and table of correspondence, <https://info.parliament.ge/file/1/BillReviewContent/247835?> [accessed: 2025.03.01]; and <https://info.parliament.ge/file/1/BillPackageContent/28239?> [accessed: 2025.03.01].

²⁹ E. Kardava, *Regulation of Internship in Georgian and EU law*, "Law Journal" 2021, no. 2, pp. 113–121, <https://jlaw.tsu.ge/index.php/JLaw/article/view/3622/3850> [accessed: 2025.03.01].

4. Georgia has studied European practice in a complex manner (not only relevant directives, but also cases of their application in EU Member States, and the CJEU's decisions and judgments), nor is there evidence that Georgia is on a true path toward approximation to the EU labor directives (in the context of the legal approximation method, that is, the table of correspondence);
5. following the adoption and enforcement of European laws/provisions, Georgia has ensured permanent monitoring and administration of execution (in the context of the stages of legal approximation);
6. Georgia has evaluated and analyzed the impact of social policy goals (of new labor regulations) on trade and assessed the compliance of changes with both political and economic criteria (in the context of the requirements stipulated in Chapter 13 of the DCFTA and its Articles 417 and 418).

Labor policy in the AA combines and unites the Agreement's political, economic, trade-related, and social goals. Therefore, this should be properly understood and considered in the process of the development of labor law and legal approximation in Georgia.

Europeanization of labor law should result in ensuring decent living conditions for an individual. Otherwise, the aim and intentions behind the changes will raise doubts. Introduction of about twenty-six changes to the LCG since 2012 should have provided citizens with tangible outcomes, a feeling of security, in the European understanding of this word, especially in terms of balancing work and personal/family life, and welfare improvement.

The labor policy standard primarily reflects in two doctrinal and fundamental aspects: decent payment and limitation of working hours (including overtime). In fact, in the context of so many changes and thirty years of European integration in Georgia, these two issues have not improved for the people/employees of Georgia (taking into account rising consumer prices³⁰). Thus, in response to the question – whether the numerous amendments to labor legislation and the implemented reform resemble the European model – it can be stated with certainty that, in essence, they do not.

³⁰ Because of a difficult social and economic situation, emigration from Georgia is high.

Annex I

Table of Correspondence of the Georgian Law with the EU laws

EU law		Draft-law/draft-laws of Georgia and Georgian normative acts currently in force No. 1. Draft-Law of Georgia No. 2. Georgian Normative act Level of Correspondence: – Full/F – Partial/P – Non-correspondence/N – Non-compulsory/N.C.				
1	2	3	4	5	6	7
Article or sub-article	Text of the provision (article or sub-article)	No.	Article or sub-article	Text of the provision (article of sub-article)	Level of Correspondence	Comment

Source: Author's own work.

1. Article or sub-article of the EU Law.
2. Text of the EU law provision (article of sub-article).
3. The number which is granted to the Draft-law of Georgia or Georgian normative act.
4. The article or sub-article of the draft-law of Georgia or Georgian normative act.
5. Text of the provision (article or sub-article) of the draft-law of Georgia or Georgian normative act.
6. Level of Correspondence (Full, Partial, Non-Correspondence, Non-compulsory).
7. Comment, among about partial correspondence and non-correspondence.

In this table the EU law should be fully written except the preamble part.

Annex II³¹

Table of Correspondence of the Georgian Law with the EU laws

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time		Draft-law/draft-laws of Georgia and Georgian normative acts currently in force No. 1. Organic Law of Georgia "Labor Code of Georgia" No. 2. Draft-Organic Law of Georgia "Amendments to Labor Code of Georgia" No. 3. Organic Law of Georgia on Labor Safety Level of Correspondence: – Full/F – Partial/P – Non-correspondence/N – Non-compulsory/N.C.				
1	2	3	4	5	6	7
Article or sub-article	Text of the provision (article or sub-article)	No.	Article or sub-article	Text of the provision (article of sub-article)	Level of Correspondence	Comment
1.1	Article 1 Purpose and scope 1. This Directive lays down minimum safety and health requirements for the organisation of working time.	1	1.1	Article 1 – Scope 1. This Law regulates labor and its concomitant relations in the territory of Georgia, unless they are otherwise governed by other special law or international agreements of Georgia.	F	Draft Organic Law of Georgia "Amendments to the Labor Code of Georgia" applies to labor relations in Georgia and includes the content of the Directive related to all issues, for example, working time, leisure time, Vacation, night work, etc.

³¹ The table was presented with the Amendments to the Organic Law of Georgia "Labor Code of Georgia" to the Parliament of Georgia in 2020. Here some parts are shown as an example; <https://info.parliament.ge/file/1/BillPackageContent/28247> [accessed: 2025.03.01].

2.1	Article 2 Definitions For the purposes of this Directive, the following definitions shall apply: 1. “working time” means any period during which the worker is working, at the employer’s disposal and carrying out his activity or duties, in accordance with national laws and/or practice.	2	24.1	Article 24 – Duration of working time 1. Standard working time shall be any period during which an employee is working at the employer’s disposal and is carrying out his/her activities or duties. Working time shall not include breaks and rest periods.	F	Draft Organic Law of Georgia “Amendments to the Labor Code of Georgia” separates the content of Normalized working hours from any time when the employee works under the disposal of the employer.
7.1.	Article 7 Annual leave 1. Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice.	2	31.1 24.7	Article 31 – Duration of leave 1. An employee shall have the right to enjoy paid leave of at least 24 working days annually. In addition to the 12 hours’ daily rest period referred to paragraph 4 of this article, employers shall ensure that, per each seven-day period, every employee is entitled to a minimum uninterrupted rest period of 24 hours. By agreement between the parties, the employee may enjoy a rest period of 24 hours twice in a row within not more than 14 days.	F	

Annex II. cont.

20.1.	Article 20 Mobile workers and offshore work 1. Articles 3, 4, 5 and 8 shall not apply to mobile workers. Member States shall, however, take the necessary measures to ensure that such mobile workers are enti- tled to adequate rest, except in the circumstances laid down in Article 17(3)(f) and (g).				N	The provision of the directive provides at the discretion of the states to establish certain exceptions to the separate organization of working time. Draft-Organic Law of Georgia Offers no such exceptions.
-------	---	--	--	--	---	--

Source: Author's own work.

Literature

- European Commission, *Association Implementation Report on Georgia*, Brussels, 5.02.2021.
- Kardava E., *Commentary on Title VII of the Labor Code of Georgia (Maternity Leave)*, Tbilisi 2023.
- Kardava E., *Compliance of Georgian Labour Legislation with EU Labour Law: Decisions and Challenges Regarding Maternity Leave*, Tbilisi 2024, [https://cu.edu.ge/files/Docs/2024/grant%20project/europlants/Publikacia_P2%20\(1\).pdf](https://cu.edu.ge/files/Docs/2024/grant%20project/europlants/Publikacia_P2%20(1).pdf).
- Kardava E., *Employees' Rights – International Approaches, AA obligations, Georgian Reality, Correspondence with Europe*, CSRDG, the EU for Georgia 2018, <https://www.asocireba.ge/files/Eka-Kardava-Labor-rights-2018.pdf>.
- Kardava E., *EU, Association Agreement and Legal Approximation, JM Module "EUEAA"*, Georgia 2023, <https://www.gu.edu.ge/uploads/other/14/14341.pdf>.
- Kardava E., *EU Labor Standards in Georgian Law and Practice, Georgian Labor Code vs Georgian Law on Public Service*, Tbilisi 2018.
- Kardava E., *Georgian Labor Law Reform in line with the Requirements of the European Integration and Association Agreement*, Tbilisi 2018, http://press.tsu.ge/data/image_db_innova/Eka%20Kardava.pdf.
- Kardava E., *Regulation of Internship in Georgian and EU law*, "Law Journal" 2021, no. 2.
- Kardava E., Yarmolyuk-Kröck K., Palihovici L., *Too Little, Too Slow: Why Employees in Georgia, Moldova, and Ukraine Do Not Benefit from the EU Association Agreements*, Kyiv 2019, <http://library.fes.de/pdf-files/bueros/kiew/15773.pdf>.

Summary

Ekaterine Kardava

Legal Approximation Aspects in the Field of Labor Law in Georgia

Georgia has an obligation to implement ILO and EU labor standards in national law and practice. Georgia's publicly declared will to pursue European integration from 1996 has not always been justified in its Labor Code. A new age began in 2012–2013, and since then Georgia has made twenty-six amendments to the Labor Code. This article describes the Europeanization of labor law in terms of the concept of legal approximation based on the Association Agreement between the EU and Georgia. I discuss whether the numerous changes correspond with European practice and whether outcomes solve the most acute and persistent problems in Georgia.

Keywords: labor, EU directives, Labor Code of Georgia, Association Agreement, DCFTA, ILO, Legal Approximation.

Streszczenie

Ekaterine Kardava

Prawne aspekty harmonizacji prawa pracy w Gruzji

Artykuł przedstawia proces europeizacji prawa pracy w Gruzji w kontekście zbliżenia całego systemu prawnego do standardów Unii Europejskiej. Proces harmonizacji i dostosowania standardów gruzińskiego prawa pracy wynika ze zobowiązań ustalonych w umowie stowarzyszeniowej między Unią Europejską a Gruzją. W opracowaniu opisano szczegółowo zakres zmian systemu prawnego Gruzji w zakresie osiągnięcia określonego standardu warunków pracy, który wynika z przyjętych zobowiązań międzynarodowych. Zauważono przy tym, że zmiany prawa pracy są podyktowane wprowadzeniem do krajowego systemu umów przyjętych przez Międzynarodową Organizację Pracy oraz dyrektyw unijnych. W efekcie w ostatnim czasie dokonano licznych nowelizacji kodeksu pracy Gruzji (26 nowelizacji). Artykuł poddaje ocenie, czy zmiany te odpowiadają standardom europejskim oraz rozwiązują najważniejsze problemy, jakie występują obecnie w Gruzji. Poruszono także kwestie form, etapów i metod zbliżenia prawnego, a także omówiono znaczenie monitorowania i kontroli procesu wdrażania standardów unijnych nie tylko pod względem formy, ale przede wszystkim realizacji celu i założeń dyrektyw unijnych.

Słowa kluczowe: prawo pracy, dyrektywy UE, kodeks pracy Gruzji, umowa stowarzyszeniowa, DCFTA, ILO, harmonizacja prawa.