

Legal Framework of the United States-Georgia Strategic Relations

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Abstract

The article aims at analyzing legal framework which can define main fields of bilateral relationship between the United States and Georgia. The paper examines agreements on cooperation in defense sphere, trade and investments, the development of the energy sector, strengthening the rule of law. At the same time the article focuses on the United States-Georgia Charter on Strategic Partnership which represents central framework for bilateral relationship of the United States-Georgia and includes defense and security matters, economic, energy, cultural issues, legal aspects for strengthening further the rule of law, including by increasing judicial independence.

Keywords: legal framework, agreements, the rule of law, bilateral relationship, strategic relations

Introduction

“Since the restoration of Georgia’s independence, the United States has actively supported Georgia’s sovereignty, territorial integrity, the strengthening of its democratic institutions, the development of its market economy, and the country’s full integration into European and Euro-Atlantic institutions. The U.S.-Georgia relations continue to be close. Georgian leaders note that the U.S. humanitarian assistance was critical to Georgia’s recovery from civil war and economic difficulties following independence. Extensive U.S. assistance is currently targeted to support Georgia’s economic and political reform programs, with an emphasis on institution building” (The U.S.-Georgia Relations).

“Continuing to believe in the possibility of real democratic transformation in Georgia, the United States seeks to use the strategic partnership to promote this transformation. The United States-Georgia Charter on Strategic partnership notes the intention to cooperate to increase judicial independence, political pluralism, and the transparency and accountability of Georgia’s executive branch and legislative processes, while creating a more competitive electoral environment” (Welt, 2010, p.10).

“The charter goes further, however, ultimately seeking to justify the strategic partnership on the basis of what it is trying to achieve: a democratic Georgia. Democracy is the chief basis for political legitimacy, and therefore, stability; cooperation between democracies on defense and security is essential to respond effectively to threats to peace and security. The conclusion is clear: Georgian democracy is an essential foundation for the success of the strategic part-

nership” (Welt, 2010, pp.10-11). Therefore, it is crucial for strengthening democratic institutions according to the legal framework of the U.S.-Georgia strategic partnership. Simultaneously it is significant to take into consideration legal issues of bilateral cooperation in the process of institutional reforms.

Basic Legal Framework of the United States-Georgia Relations

“Since becoming independent after the dissolution of the Soviet Union, Georgia has been struggling to establish itself in the international arena. The first decade of independence was a turbulent period during which Georgia did not manage to frame a definitive foreign policy orientation. After turbulent period the country adopted strong rhetoric promoting its western orientation and aimed at rapid integration with Euro-Atlantic institutions such as NATO and the EU. For this purpose, the elite made a conscious choice of Georgia as a country belonging to the Black Sea region and ideally as part of Eastern or South-Eastern Europe. The Black Sea region is the closest it gets to the West as it includes two EU members - Bulgaria and Romania - and three members of NATO - Bulgaria, Romania and Turkey. As a result Georgia, discarding any other regional identity option, focused exclusively on those identities that moved the country closer to Europe” (Minesashvili & Kakhishvili, 2015).

According to the National Security Concept, Georgia, as a Black Sea and South-Eastern European state, has histori-

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cally been a geographic, political and cultural part of Europe. Therefore, integration into European and Euro-Atlantic political, economic and security systems is the firm will of Georgian people. Georgia welcomes NATO and EU enlargement and believes that integration of the Black Sea states into NATO and the EU will significantly reinforce the security of the Black Sea region as the South-Eastern border of Europe. Integration to NATO and the EU represents a top priority of Georgian foreign and security policy. Georgia's cooperation with NATO contributes to strengthening of democratic values in the country, accomplishment of democratic reforms, especially in the field of defense, as well as establishment of a secure and stable environment. Membership of NATO would not only endow Georgia with an unprecedented degree of military and political security, but would allow it to contribute to strengthening the security of Europe, particularly the Black Sea region (The National Security Concept of Georgia, p.7).

Based on the foregoing, it is clear that Georgia needs allies on the international arena for achieving main goals of the foreign and security policy. The United States represents a significant strategic partner for Georgia in this direction. Therefore, the National Security Concept of Georgia clarified that Georgia continues to develop its strategic partnership with the United States of America. From the very day Georgia declared independence, the United States has strongly supported development and strengthening of Georgia's statehood, democracy, defense capabilities and economy. The United States' continued support to Georgia through various forms of cooperation and assistance plans is instrumental to Georgia's pledge to become a full democracy with a viable market economy, and to its aspirations to move toward European and Euro-Atlantic integration (The National Security Concept of Georgia, pp.8-9).

The abovementioned political grounds represent preconditions for legal framework of the United States-Georgia strategic relationship. The first steps of creating legal basis of bilateral relationship were agreements on promotion of investments between the Government of Georgia and the Government of the USA (1992) and on supporting humanitarian, technical, economic assistance (1992). In 1997 and 2001 parties concluded bilateral treaties concerning cooperation in the field of non-proliferation of weapons of mass destruction, expanding defense, military relations and strengthening the rule of law. In 2002 the agreement on cooperation in the defense sphere was signed by the Government of Georgia and the Government of the USA.

In 2007 the framework agreement on trade and investments was concluded between Georgia and the USA. This agreement aims at expanding trade; strengthening economic relations between the parties; promoting transparency, eliminating bribery, corruption in international trade and investment; recognizing the essential role of private investment, both domestic and foreign, in furthering growth, creating jobs, expanding trade, improving technology, enhancing economic development; encouraging and facilitating contacts between enterprises and other private sector groups in each other's territories (Trade and Investment Framework Agreement between the United States and Georgia, 2007, p.1). In 2007, the Open Skies Aviation Agreement was signed by Georgian and American sides. In 2010, the parties concluded assistance agreement for the development of energy sector.

These agreements clearly demonstrate that the United States-Georgia relations include bilateral cooperation in

various fields including trade, investment, defense, military issues and strengthening the rule of law.

"By 2011 the United States had provided over \$3 billion in assistance to Georgia since its independence in 1991, including a \$1 billion post-conflict assistance package in the aftermath of the 2008 War. Recent U.S. foreign assistance has been designed not only to address immediate recovery needs, both economic and humanitarian, arising from the 2008 War, but to consider longer-term development priorities that will assist Georgia in its ongoing transition to a free, prosperous, market-oriented democracy firmly anchored in the Euro-Atlantic community. The majority of the post-conflict pledge targeted immediate stabilization and reconstruction needs such as supporting reintegration of internally displaced persons and social recovery, and restoring peace and security through support for law enforcement and enhanced border security" (The U.S.-Georgia Relations).

United States-Georgia Charter on Strategic Partnership

"Since the establishment of diplomatic relations with the newly independent Georgia, the United States has provided immense political, military, financial and humanitarian assistance to Georgia. The United States has become one of the main international guarantors of Georgia's sovereignty. The U.S. reiterated strong support of the territorial integrity of Georgia and its Euro-Atlantic integration" (Relations between Georgia and the United States).

On January 9, 2009 in Washington D.C. the Charter on Strategic Partnership between Georgia and the United States was signed. After August War 2008, signing the Charter clearly demonstrated that the United States remains the significant international guarantor of Georgia's sovereignty. This Charter represents central framework of bilateral strategic relations between Georgia and the United States. It supports Georgia's territorial integrity, political independence, strengthening the democracy and stability.

"The United States-Georgia Strategic Partnership affirms the importance of bilateral relationship as friends and strategic partners. This Strategic Partnership intends to deepen partnership to the benefit of both nations and expand cooperation across a broad spectrum of mutual priorities. It emphasizes that this cooperation between two democracies is based on shared values and common interests. This includes expanding democracy and economic freedom, protecting security and territorial integrity, strengthening the rule of law and respect for human rights, including the right of dignified, secure and voluntary return of all internally displaced persons and refugees, supporting innovation and technological advances, and bolstering Eurasian energy security" (United States-Georgia Charter on Strategic Partnership).

United States-Georgia Charter on Strategic Partnership consists of preamble and 5 sections. The first section focuses on basic principles and values of strategic partnership. "It emphasizes that democracy is the chief basis for political legitimacy; cooperation between democracies on defense and security is essential to respond effectively to threats to peace and security; the United States encourages efforts by Georgia to deepen its political, economic, security, and social ties with other nations of the Euro-Atlantic com-

munity. The partners declare that their shared goal is the full integration of Georgia into European and transatlantic political, economic, security, and defense institutions as Georgia meets the necessary standards” (United States-Georgia Charter on Strategic Partnership, 2009, p.1).

According to the Section II (Defense and Security Cooperation), “parties share a vital interest in a strong, independent, sovereign, unified, and democratic Georgia. The United States recognizes Georgia’s important contributions to Coalition efforts in Iraq as demonstrating Georgia’s potential as a net provider of security. Deepening Georgia’s integration into Euro-Atlantic institutions is a mutual priority, and they plan to undertake a program of enhanced security cooperation intended to increase Georgian capabilities and to strengthen Georgia’s candidacy for NATO membership. Working within the framework of the NATO-Georgia Commission, the United States and Georgia intend to pursue a structured plan to increase interoperability and coordination of capabilities between NATO and Georgia, including via enhanced training and equipment for Georgian forces” (United States-Georgia Charter on Strategic Partnership, 2009, p. 2).

“Recognizing the persistence of threats to global peace and stability, and recalling the Georgian and Russian commitment within the August 12 ceasefire agreement to the non-use of force, the United States and Georgia intend to expand the scope of their ongoing defense and security cooperation programs to defeat these threats and to promote peace and stability. A defense and security cooperation partnership between the United States and Georgia is of benefit to both nations and the region. Building on the existing cooperation among their respective agencies of defense and armed forces, the United States supports the efforts of Georgia to provide for its legitimate security and defense needs, including development of appropriate and NATO-interoperable military forces” (United States-Georgia Charter on Strategic Partnership, 2009, p. 2).

According to the Section III (Economic, Trade and Energy Cooperation), “the United States and Georgia intend to expand cooperation to enhance job creation and economic growth, support economic/market reform and liberalization, continue to improve the business climate, and improve market access for goods and services. They recognize that trade is essential to promoting global economic growth, development, freedom, and prosperity. Parties welcome the emergence of a Southern Corridor of energy infrastructure. The United States endeavors to facilitate the integration of Georgia into the global economy and appropriate international economic organizations” (United States-Georgia Charter on Strategic Partnership, 2009, p. 2).

“Acknowledging the importance of increased investment to economic growth and development, the United States and Georgia intend to pursue an Enhanced Bilateral Investment Treaty, to expand Georgian access to the General System of Preferences, and to explore the possibility of a Free-Trade Agreement” (United States-Georgia Charter on Strategic Partnership, 2009, p. 3).

“Recognizing the importance of a well-functioning, market-oriented energy sector, the United States and Georgia intend to explore opportunities for increasing Georgia’s energy production, enhance energy efficiency, and increase the physical security of energy transit through Georgia to European markets” (United States-Georgia Charter on Strategic Partnership, 2009, p. 3).

The fourth section of the Charter focuses on strengthening democracy which includes media freedom, parliament, judicial reform, the rule of law, civil society, respect for human rights and fundamental freedoms, and anti-corruption efforts.

“The United States and Georgia pledge cooperation to bolster independent media, freedom of expression, and access to objective news and information, including through assistance to journalists and media outlets. Parties cooperate to strengthen further the rule of law, including by increasing judicial independence. In this regard, the United States intends to provide assistance in this process, including training of judges, prosecutors, defense lawyers, and police officers. Through enhanced law-enforcement and judicial-branch relationships, they plan to address common transnational criminal threats such as terrorism, organized crime, trafficking in persons and narcotics, money laundering, and cyber-crime. The United States and Georgia plan to work together to promote good governance by increasing the transparency and accountability of Georgia’s executive branch and legislative processes, and expanding citizen and media access to government deliberation” (United States-Georgia Charter on Strategic Partnership, 2009, p. 3).

According to the section V (Increasing People-to-People and Cultural Exchanges), “the United States and Georgia share a desire to increase people-to-people contacts and enhance cultural, educational and professional exchange programs that promote democracy and democratic values and increase mutual understanding” (United States-Georgia Charter on Strategic Partnership, 2009, p. 4).

As for mechanism of implementation of the Charter, in order to promote bilateral cooperation on the aforesaid fields the Strategic Partnership Commission was established. The first meeting of the Strategic Partnership Commission, held in Washington, D.C. on June 22, 2009, launched four bilateral working groups on priority areas identified in the Charter: democracy, defense and security, economic, trade and energy issues, and people-to-people and cultural exchanges. Senior-level American and Georgian policy-makers led subsequent meetings of each of these working groups during 2009-2015 to review commitments, update activities, and establish future objectives (A Brief History of the Charter). Therefore, parties have a very significant list of collaborative activities.

Conclusion

It should be mentioned that the United States-Georgia partnership has not just only strong political grounds but this strategic relationship has significant legal basis. Legal framework includes agreements for enhancing, promoting cooperation in the fields of military, defense, culture, trade, investments, energy security, strengthening democracy, protecting fundamental rights and freedoms, providing transparency, accountability, pluralism, impartiality and independence of judicial system. As for mission of the Charter on Strategic Partnership, through this Charter America reaffirms its support for the enhanced cooperation. In particular parties clarified the four fields of bilateral relationship: defense and security cooperation; economic, trade and energy cooperation; strengthening democracy; increasing people-to-people and cultural exchanges.

The contents of these agreements clearly emphasize

that strategic relations between the United-States-Georgia firstly give the Georgian government real opportunities to make reforms in different spheres for finalizing successfully institutional building process through the support of strategic ally. As for the United States, Georgia represents a reliable partner for the Americans in this region and at the same time Georgia's integration into Euro-Atlantic and European institutions will serve as a model for former Soviet states. An independent, sovereign and democratic Georgia is able to respond to security challenges and to make a valuable contribution in the process of maintaining international peace.

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