The EU-Armenia Comprehensive and Enhanced Partnership Agreement: A New Instrument of Promoting EU’s Values and the General Principles of EU Law

Anna Khvorostiankina

1 Introduction

The EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA) was signed on 24 November 2017. After the failure of the EU-Armenia Association Agreement because of Armenia’s ‘U-turn’ towards membership in the Russia-led Eurasian Economic Union (EAEU) (then Eurasian Customs Union) in September 2013, CEPA marked the beginning of the new stage in the bilateral relations between the EU and Armenia and established the legal basis of the new format of partnership. The new instrument clearly demonstrated that, regardless of its participation in the EAEU, Armenia, as one of the Eastern Partnership (EaP) countries, still aims to develop an active political dialogue and deepen economic cooperation with the EU. Moreover, the commitments undertaken by Armenia show its eagerness to further Europeanise the domestic legal system.

The Agreement particularly aims “to enhance the comprehensive political and economic partnership and cooperation between the Parties, based on common
values and close links, including by increasing the participation of the Republic of Armenia in policies, programmes and agencies of the European Union” and replaces the outdated EU-Armenia Partnership and Cooperation Agreement (PCA) signed in 1996. It is expected that CEPA “will strengthen [EU-Armenia] cooperation in many different fields such as energy, transport and environment, and lead to increased mobility” and will “lead to an improved business environment and to new opportunities in trade and investments”.4

In the words of then High Representative of the European Union for Foreign Affairs and Security Policy/Vice President F. Mogherini, the newly signed agreement is “the first of its kind, as it is concluded with a partner country which is at the same time a member of Eurasian Economic Union and in the Eastern Partnership”.5 Indeed, CEPA is a unique legal instrument: within the EaP region, it significantly differs from both PCAs concluded with the post-Soviet countries in 90s and Association Agreements (AAs) of new generation signed with Georgia, Moldova and Ukraine. These particularities make the newly signed Agreement extremely interesting for scholarly examination.

The comprehensive analysis of CEPA and its transformative potential requires considering the social and political context in which the Agreement is now provisionally applied and will fully operate upon its entering into force. The ratification of CEPA by the National Assembly (Armenian Parliament) on 11 April 2018 coincided with the beginning of peaceful protests and acts of civil disobedience against oligarchy, monopolisation and concentration of power, violations of fundamental rights, disrespect to the rule of law, corruption and other negative phenomena associated with the ruling of the Armenian Republican Party and its leader Serzh Sargsyan. Having served two terms as the President of Armenia (2008–2018), on 17 April 2018 Sargsyan was elected as the Prime Minister by the Parliament. After the controversial constitutional reform of 2015 that introduced the parliamentary system of government and significantly strengthened the authority of Prime Minister having made the position of the President a symbolic one, this election meant, in fact, the third presidential term for Sargsyan. As a result of the protests, on 23 April 2018, he resigned. The opposition leader Nikol Pashinyan was elected as the Prime Minister of Armenia and formed the new Government.

The Government immediately started implementing the anti-corruption measures and introducing reforms directed to the establishment of good governance and the rule of law. The National Assembly, however, remained dominated by the Republican Party hindering the effective functioning of the new Government, particularly by blocking its legislative proposals. One of the most illustrative examples was the rejection of the bill introducing the electoral reform initiated by Pashinyan.6

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2 Art. 1(a) EU-Armenia CEPA.
3 Art. 380 EU-Armenia CEPA.
4 Delegation of the European Union to Armenia (2017).
5 Ibid.
6 Radio Free Europe/Radio Liberty’s Armenian Service (29 October 2018a).
To initiate the dissolution of the Parliament, in October 2018 Pashinyan resigned. After the failure of the National Assembly to elect a Prime Minister by supporting the only candidate (Pashinyan), it was dissolved by virtue of law\(^7\) and the snap elections were held on 9 December 2018. According to the elections results, My Step Alliance led by Nikol Pashinyan won 70.42% of votes while the Republican Party did not get enough voters’ support to clear the 5% threshold.\(^8\)

The process of peaceful transition of power in April-May 2018 did not have any geopolitical connotations and the regional integration vectors were not under the question. As a Member of Parliament, in 2014, Pashinyan voted against Armenia’s joining the Eurasian Economic Union as a project threatening Armenia’s independence and sovereignty and deepening its regional isolation (particularly from Georgia and Iran).\(^9\) Nevertheless, during the parliamentary debates in the election of Prime Minister, Pashinyan, as the candidate, underlined his intent to develop deep, equal and mutually beneficial relations with all international partners of Armenia, including EAEU and Russia.\(^10\) At the same time, the dynamics of the initiated reforms created the grounds for cautious optimism concerning the potential deepening of the EU-Armenia relations. Being in harmony with the EU ‘common’ values, these genuinely internal political processes of reforming (in conjunction with the active development of civil society) can, on the one hand, facilitate and, on the other hand, benefit from proper implementation of CEPA. Moreover, the demand for the successful models and best practices for the ‘restart’ legal, political and economic reforms can stimulate further Europeanisation of Armenia even beyond the formal commitments under the Agreement.

This chapter offers the legal analysis of CEPA as an instrument framing the EU-Armenia relations and characterises its potential influence on the Armenian legal order. Particularly, it focuses on the Agreement’s potential to stimulate the implementation of the ‘common values’ and transpose the general principles of EU law into the Armenian legal system. To reveal this potential, the chapter discusses CEPA’s objectives and legal basis, the institutional framework of partnership under CEPA, Agreement’s place in Armenian domestic legal order and the potential effect of the decisions adopted by CEPA’s institutions, defines the essential elements and conditionality mechanisms of the Agreement, as well as mechanisms of legislative approximation to the EU *acquis*.

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\(^7\) See Art. 149(3) of the Constitution of Armenia.

\(^8\) Central Electoral Commission of Armenia (2018, Tab “Summary”).

\(^9\) National Assembly of the Republic of Armenia (2014a, b).

\(^10\) National Assembly of the Republic of Armenia (2018a).
2 CEPA: Objectives and Legal Basis

According to Art. 1 of CEPA, the Agreement aims to: enhance the comprehensive political and economic partnership and cooperation between EU and Armenia; strengthen the framework for political dialogue; contribute to the strengthening of democracy and of political, economic and institutional stability in Armenia; to promote, preserve and strengthen peace and stability at both regional and international level, including through joining efforts to eliminate sources of tension, enhancing border security, and promoting cross-border cooperation and good neighbourly relations; enhance cooperation in the area of freedom, security and justice with the aim of reinforcing the rule of law and respect for human rights and fundamental freedoms; enhance mobility and people-to-people contacts; support Armenia’s efforts to develop its economic potential via international cooperation, including through the approximation of its legislation to the EU acquis; establish enhanced trade cooperation allowing for sustained regulatory cooperation in relevant areas and the conditions for increasingly close cooperation in other areas of mutual interest.

From the EU’s perspective, these objectives belong to the Common Foreign and Security Policy, the Common Commercial Policy and development cooperation. Consequently, the legal basis of the Agreement was defined as the combination of Article 37 TEU, Article 207 TFEU (agreements related to Common Commercial Policy) and Article 209 TFEU (agreements in the area of development cooperation) read in conjunction with the procedural provisions of Article 218(6)(a) TFEU and the second subparagraph of Article 218(8) TFEU.11

The implementation of the Agreement is to be facilitated through the EU-Armenia Partnership Priorities signed on 21 February 2018.12 This document replaces another ‘soft’ law document—the ENP Action Plan adopted in 2006 and “shape[s] the agenda for regular political dialogue meetings and sectoral dialogues as defined in the new Agreement”.13 Being in line with the priorities set out in the ENP Review14 and coinciding with the focuses of CEPA, the Partnership Priorities include (1) strengthening institutions and good governance; (2) economic development and market opportunities; (3) connectivity, energy efficiency, environment and climate

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11 Joint Proposal of the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy for a Council Decision on the conclusion, on behalf of the European Union, of the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part of 25 September 2017 JOIN(2017) 37 final, 2017/0238(NLE).
12 European Union External Action Services (2018).
13 EU-Armenia Cooperation Council (20 November 2017) Recommendation No 1/2017 on the EU-Armenia Partnership Priorities [2018/315], O.J. L 60, 2.3.2018, pp. 51–55. http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1522643453339&uri=CELEX:22018D0315. Accessed 15 March 2018.
14 European Commission (2015).
action; and (4) mobility and people-to-people contacts. Another ‘joint ownership’
document elaborated by Armenia and the EU and aiming to direct the achievement
of the Agreement’s objectives is the CEPA Implementation Roadmap elaborated by
the Inter-Agency Commission coordinating the implementation of CEPA and
EU-Armenia Partnership Priorities in May 2019, approved by the Decision of
Prime Minister N 666-L and by the Partnership Council in June 2019.

Having analysed the context in which CEPA was concluded, one may argue that
the Agreement became a result of implementation of the EU’s differentiation and
greater flexibility approach within the revised EaP and Armenia’s ‘complementar-
ity’ in its multi-vector foreign policy.

The Armenian Constitution neither stipulates any restriction on the issues of inter-
national or regional cooperation; nor shows any specific integration priorities or
preferences (however, according to the amendments to the Constitution introduced
in 2015, the issues related to the accession to supranational international organisa-
tions shall be decided by popular referenda.

The foreign policy principle of ‘complementarity’ and multi-vector regional
cooperation introduced in the late 90s is currently supported by the new government
as well, although with some elaborations. The Program of Sargsyan’s Government
for 2017–2022 highlighted deepening bilateral cooperation, particularly with
Russia, USA, European counties, Georgia, Iran, China, India, countries of the
Middle East and multilateral cooperation with EAEU, CSTO, EU, CIS, UN, NATO
and CoE. The same directions of foreign relations are indicated in the Program of
Pashinyan’s Government. However, noteworthy is (1) stressing the necessity to
increase the effectiveness of the participation in the EAEU, (2) identifying the prin-
ciples of cooperation with Russia, particularly equality; (3) in relations with the EU,
focusing on implementation of CEPA (as a significant factor contributing to the
implementation of the reforms initiated by Government) and setting the aim to start
the dialogue on visa liberalisation (italics added – A. Kh.).

Although Armenia is both a member of the Russia-led EAEU and has enhanced
relations with the EU, arguably, these two regional integration vectors have signifi-
cant differences. While the former was forced by Russia’s leverages, is based on
pragmatic economic interests and security considerations and does not aim at any

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15 The Inter-Agency Commission was created by the Decision of the Prime Minister of RA N 906-A of 2 July 2018 and is headed by the Deputy Prime Minister. Earlier, the function of coordination of the implementation of CEPA belongs to the inter-agency commission established on 25 December 2017 by the decree of the President of Armenia.

16 Art. 205 of the Constitution of RA.

17 See: Decision of the Constitutional Court DCC-1175 of 14 November 2014.

18 See section 2.1 of the Program of Government of RA for 2017–2022.

19 See section 3.2 of the one-year Program of Government of Armenia for 2018 and section 2.3 of the five-year Program of Government of Armenia of 2019.

20 On Russia’s leverages see: Delcour and Wolczuk (2015), p. 495.
value-based systemic change, the latter initially corresponded to the domestic demand for modernisation based on EU templates and had significant value-based discourse component. Before April 2018, however, this ‘demand’ was rather of pragmatic nature, aimed mainly at sectoral reforms and—as Delcour L and Wolczuk K point out in relation to the period of 2009–2013—was caused by the necessity to decrease the vulnerability of the incumbent government. The result was the technical legislative reforms that did not bring any systemic change (i.e. overcoming corruption, dissolving oligarchic informal monopolies, introducing good governance and improving the democratic institutions, etc.). This formalistic approach of the government was coupled with the lack of rigour of the EU in pursuing the ‘value conditionality’. In fact, it was one of the cases when, providing the support of ‘low political cost’ and not endangering the ‘survival strategy’ of the authorities, the cooperation with the EU actually prolonged the rule of the authoritarian government. Currently, in part of ‘shared values’ discourse, the cooperation with the EU may be viewed as coinciding with the governmental vision of further development of domestic constitutional order aiming to bring systemic legal and political change.

Kostanyan and Giragosian observe that the negotiators of CEPA relied on the text of the failed EU-Armenia Association Agreement adjusting it to the new format of the EU-Armenia relations. The analysis shows that both ‘political’ and ‘economic’ parts of CEPA differ from the respective parts of the AAs with Georgia, Moldova and Ukraine. Particularly, under Art. 5(1) of CEPA, the Parties “shall intensify their dialogue and cooperation in the area of foreign and security policy, including the common security and defence policy”. This provision does not go that far as Art. 7 (1) of the EU-Ukraine AA promoting ‘gradual policy convergence’ in the listed areas. It recognises “the importance that the Republic of Armenia attaches to its participation in international organisations and cooperation formats and its existing obligations arising therefrom” (particularly from Armenia’s membership in the Russia-led Collective Security Treaty Organization). CEPA’s ‘economic part’, due to the concurring international obligations of Armenia under the Eurasian Economic Union Treaty and in contrast with the AAs, does not foresee the creation of the Deep and Comprehensive Free Trade Area (DCFTA). Arguably, this not only lowers the level of economic integration and narrows the scope of economic cooperation between the parties, but also significantly influences CEPA’s conditionality mechanisms taking away the incentives of gradual integration into the EU Internal Market offered in the AAs.

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21 See Art. 3 EAEU Treaty that among the basic principles lists the “respect for specific features of the political structures of the Member States”, therefore indicating that EAEU is formally ‘indifferent’ to the value systems of the Member States.
22 Delcour and Wolczuk (2015), p. 499.
23 Delcour and Wolczuk (2015), pp. 498–499.
24 Ghazaryan and Hakobyan (2014), p. 214.
25 Gstöhl (2014), p. 102.
26 Kostanyan and Giragosian (2017), p. 12.
3 Institutional Framework and Decision-Making in the Institutions Established Under CEPA

The institutional framework of the EU-Armenia relations is regulated by Title VIII of CEPA. It resembles the institutional frameworks under AAs, however, in contrast with the EU-Ukraine AA, it does not include the summit meetings on the highest level. The bodies established under CEPA are Partnership Council, Partnership Committee, sub-committees and other bodies assisting the Partnership Committee, Partnership Parliamentary Committee and Civil Society Platform.

The Partnership Council supervises and regularly reviews the implementation of the Agreement. It consists of representatives of the parties at ministerial level and meets at regular intervals, at least once a year, and when circumstances require. The Partnership Council is entitled to examine any major issues arising within the framework of the Agreement and any other bilateral or international issues of mutual interest for the purpose of attaining the objectives of CEPA. It is chaired alternately by a representative of the European Union and a representative of the Republic of Armenia. Following the beginning of the provisional application of CEPA on 1 June 2018, the first Partnership Council chaired by F. Mogherini took place on 21 June 2018 and the second one, chaired by the Foreign Minister of Armenia Z. Mnatsakanyan, on 13 June 2019.

Importantly, the Partnership Council has the power to take binding decisions within the scope of the Agreement. It may also make recommendations. It adopts its decisions and recommendations by agreement between the parties, with due respect for the completion of the parties’ respective internal procedures. The Partnership Council has the power to update or amend the Annexes to CEPA, without prejudice to any specific provisions under Title VI. This body also serves as “a forum for the exchange of information on the legislation of the European Union and of the Republic of Armenia, both under preparation and in force, and on implementation, enforcement and compliance measures”. It, therefore, plays a significant role in directing and ensuring the effectiveness of the legislative approximation processes.

The Partnership Council is assisted by the Partnership Committee. It is composed of representatives of the parties, in principle at senior official level and chaired alternately by a representative of the European Union and a representative of the Republic of Armenia and meets at least once a year. The Partnership Council may delegate to the Partnership Committee any of its powers, including the power to take binding decision; additionally, this body adopts binding decisions in cases provided

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27 Art. 460 (1) EU-Ukraine AA.
28 Art. 362 CEPA.
29 European Council (2018).
30 Delegation of the European Union to Armenia (2019a).
31 Art. 362 CEPA.
32 Art. 363 CEPA.
for in the Agreement. The decisions are to be adopted by agreement between the parties, subject to the completion of the parties’ respective internal procedures.

Once a year, the Partnership Committee shall meet in a specific configuration to address all issues related to Title VI (Trade and Trade-Related Matters).

The Partnership Committee shall be assisted by subcommittees and other bodies established under this Agreement. The latter include, for example, Sub-Committee on Customs (Art. 126) and Sub-Committee on Geographical Indications (Art. 240).

The first meeting of the Committee took place on 27 November 2018. The parties discussed, in particular, the draft Roadmap of the implementation of CEPA presented by the Armenian Government. EU-Armenia Partnership Committee met for the second time in Brussels on 16 December 2019 and discussed the progress with the implementation of the Agreement.

The first meeting of the EU-Armenia Sub-Committee on Economic Cooperation and Other Related Sectors under CEPA was held in Yerevan on 12 March 2019. The objective of the meeting was to improve the shared understanding of the fundamentals of each economy. The parties exchanged information on macroeconomic trends, structural reforms, and strategies for economic development.

The first meeting of the Sub-Committee on Geographical Indications, operating within the framework of CEPA was held in Brussels on 16 October 2019. The EU-Armenia Sub-Committee meeting on energy, transport, environment, climate action and civil protection took place on 11–12 March 2020. The parties discussed the EU-Armenia cooperation in the context of the EU “Green Deal” as well as Armenia’s progress in approximation with the EU acquis in relevant sectors.

Parliamentary Partnership Committee consists of members of the European Parliament, on the one hand, and of members of the National Assembly of the Republic of Armenia, on the other, and is a forum for them to meet and exchange views. The Parliamentary Partnership Committee may make recommendations to the Partnership Council and create parliamentary partnership subcommittees. The inaugural meeting of the Parliamentary Partnership Committee took place in Strasbourg on 24 October 2018 and resulted in the adoption of the final statement and recommendations.

The Agreement underlines the importance of civil societies of the Parties and civil-society dialogue for its implementation. In specific areas, the Agreement explicitly indicates the necessity of involvement of civil-society organisations in the

33 Art. 364 CEPA.
34 Delegation of the European Union to Armenia (2018).
35 Delegation of the European Union to Armenia (2019b).
36 European Union External Action Services (2019).
37 European Commission (2018).
38 European Neighbours (2020). The event took place via a video link between Yerevan and Brussels because of the current coronavirus pandemic.
39 Art. 365 CEPA.
40 National Assembly of Armenia (2018b).
policy development and reforms. Chapter 21 of Title V is devoted to civil-society cooperation between Armenia and EU and establishes a regular dialogue on these issues.

A specific institution—Civil Society Platform—is established to enable the involvement of civil societies into the implementation of CEPA. The Platform is established as a forum for views exchange; it consists “of representatives of civil society on the side of the European Union, including members of the European Economic and Social Committee, and representatives of civil-society organisations, networks and platforms on the side of the Republic of Armenia, including the [EaP] National Platform”. The forms of cooperation between the Civil Society Forum and other institutions include exchange of information and views and making recommendations by the Platform to the Partnership Council, the Partnership Committee and Parliamentary Partnership Committee. Art. 284 CEPA specifically indicates that cooperation and dialogue on sustainable development issues that arise in the context of trade relations between EU and Armenia “shall involve relevant stakeholders, in particular social partners, as well as other civil-society organisations, in particular through the Civil Society Platform established under Article 366”.

Apparently, the institutional framework of CEPA is significantly more advanced than one of the PCA and resembles the institutional framework of the association agreements.

4 The EU-Armenia CEPA in Armenian Domestic Legal Order

4.1 CEPA and the Constitution of Armenia: Hierarchy of Legal Norms and the Issue of Constitutional Values

Under Art. 116 (2) of the Constitution of Armenia, international treaties shall be ratified through law. Art. 5 of the Constitution establishes the hierarchy of norms in the Armenian legal order and recognises the supremacy of the ratified international treaties over national laws. However, to guarantee the supremacy of the Constitution in domestic legal order, Art. 116 (3) prescribes that international treaties contradicting it may not be ratified. The Constitutional Court, before the ratification of an international treaty, determines the compliance of the commitments enshrined therein with the Constitution.

41 See Art. 86 of Chapter 15 “Employment, Social Policy and Equal Opportunities” of Title V.
42 Art. 104 CEPA.
43 Art. 366 (2) CEPA.
44 Art. 366 (5), 366 (7) CEPA.
45 Art. 366 (6) CEPA.
46 Art. 168 (3) of the Constitution of RA.
On 16 March 2018, the Constitutional Court of Armenia reviewed CEPA and held that there was no contradiction between the Constitution and the commitments under the Agreement.\(^\text{47}\) CEPA was subsequently unanimously ratified by the National Assembly on 11 April 2018.\(^\text{48}\) The Agreement is not yet in force pending ratification by all Member States,\(^\text{49}\) but it has been provisionally applied starting from 1 June 2018.\(^\text{50}\)

Interestingly enough, in its Decision on CEPA, the Court did not analyse in detail the issue of values the Agreement is based on, in contrast with its approach in the Decision concerning compliance of the EAEU Treaty with the Armenian Constitution. In the latter Decision, the Court introduced the concept of ‘axiology of the Constitution’ covering the values and fundamental principles of the constitutional order.\(^\text{51}\) The Court examined (although in a very formalistic way) and confirmed the compliance of ‘axiology’ of the commitments under the Treaty with Armenian constitutional ‘axiology’. It may be argued that this analysis aimed to enhance the legitimacy of joining to the supranational organisation that, on the one hand, can potentially limit the national sovereignty and, on the other hand, is not committed to the strengthening of the fundamental constitutional values of respect to human rights, democracy and the rule of law. Being the organisation of economic cooperation, EAEU merely does not aim at promoting the mentioned values; instead, among the principles of its functioning, the EAEU Treaty lists the respect to the universally recognised principles of international law including the principle of sovereign equality of the Member States and ‘respect to particularities of political order of the Member States’.\(^\text{52}\) At the same time, although formally the EAEU Member States recognise the ‘European’ (or universal) values in their constitutions,\(^\text{53}\) the implementation of these values is an extremely problematic issue. All the EAEU Member States are either consolidated authoritarian or semi-authoritarian regimes, not free or partly free.\(^\text{54}\)

In the Decision on CEPA, the analysis of the issue of values is really scarce. The Court merely reproduces the provisions of Art. 2 of the Agreement with focus on the

\(^{47}\) See: Decision of the Constitutional Court DCC-1407 of 16 March 2017.

\(^{48}\) Law of RA on Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part of 11 April 2018.

\(^{49}\) Art. 385 (2) CEPA. By the moment of writing, CEPA has been ratified by 21 Member States.

\(^{50}\) The scope of provisional application is defined in Council Decision (EU) 2018/104 of 20 November 2017 on the signing, on behalf of the Union, and provisional application of the Comprehensive and Enhanced Partnership Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Armenia, of the other part, \textit{O.J. L} 23, 6.1.2018, pp. 1–3.

\(^{51}\) See: Decision of the Constitutional Court DCC-1175 of 14 November 2014.

\(^{52}\) Art. 3 EAEU Treaty.

\(^{53}\) See Art. 1 and Art. 2 of the Constitution of the Republic of Belarus; Art. 1 of the Constitution of the Republic of Kazakhstan; Art. 1 of the Constitution of the Kyrgyz Republic; Art. 1 and Art. 2 of the Constitution of the Russian Federation.

\(^{54}\) Freedom House (2020).
‘essential element’ clause\textsuperscript{55} and underlines that, under the Preamble of the Constitution, Armenia alleges universal values.\textsuperscript{56} The Court does not link these two statements between themselves and does not highlight the ‘shared’ nature of the axiological core of Armenian constitutional order and the legal values promoted by the EU. This lack of theoretical framing of the Decision on CEPA (in contrast with, for example, the Decisions on the ECHR and ECtHR case law in domestic legal system,\textsuperscript{57} on the constitutionality of the EAEU Treaty\textsuperscript{58} and EAEU Customs Code\textsuperscript{59}) can be better explained through the agency approach: such theoretical (or even philosophical) concepts as ‘the spirit of the Constitution’, ‘constitutional axiology’, ‘constitutional culture’, as well as frequent reference to the international standards of fundamental rights in the argumentation patterns can be individually attributed to the then President of the Constitutional Court Dr. G. Harutyunyan. The examination of his scholarly publications allows tracing the influence of his theoretical and argumentative approaches on the Court’s case law. The Decision on CEPA was adopted just after the resignation of Dr. Harutyunyan in March 2018 and before the appointment of the new President of the Court. Consequently, the legal positions of the Court appeared to be rather technical and based on literal comparison of the obligations under the Agreement and the Constitution.\textsuperscript{60}

It is worth underlining that the values of the rule of law, democracy and respect to human rights promoted by CEPA are embodied in the unamendable provisions of Articles 1, 2 and 3 of Armenian Constitution, thus constituting its core, the very basis of its ‘identity’. Arguably, if the Constitutional Court had established this link underlining the commonality of the European and Armenian constitutional values, this would have stimulated and facilitated judicial reference to the EU law for interpretation of such values. Of great potential in this regard would have been the rapidly developing case law and soft law concerning the rule of law principle in the EU (particularly in Central European Countries).

It is obvious, however, that, to strengthen the rule of law, democracy and respect to human rights, it is not enough to declare these values as fundamental in the text of the Constitution. Proper implementation in practice is what matters and what is underlined in the text of the CEPA. As Ginsburg and Versteeg show comparing more than hundred constitutions, the countries that explicitly protect such values as the rule of law in their constitutions tend to have lower level of respect to the rule of law in practice than those that do not include the rule of law guaranties in the constitutional texts.\textsuperscript{61} Apparently, proper implementation of the fundamental values that

\textsuperscript{55} Para. 7 of the Decision DCC-1407.
\textsuperscript{56} Para. 14 of the Decision DCC-1407.
\textsuperscript{57} Decision DCC-350 of 22 February 2002.
\textsuperscript{58} Decision DCC-1175 of 14 November 2014.
\textsuperscript{59} Decision DCC-1381 of 10 October 2017.
\textsuperscript{60} This conclusion is also supported with the data of the interview with Dr. Samvel Arakelyan, Head of the Legal Advisory Department of the Constitutional Court of Armenia (May 2018).
\textsuperscript{61} Ginsburg and Versteeg (2017), pp. 507, 517.
a particular political community aspires to achieve is possible only when these val-
ues are internalised by the society, i.e. the respective constitutional “normative rules
and offered meanings are accepted and practiced in the social reality”. 62 Without
internalisation, the Europeanisation reforms targeting value systems risk to remain
of formal, façade character or even lead to the ‘pathologies of Europeanisation’
when the Europeanisation processes get instrumentalised by domestic actors and
empower the authoritarian incumbent governments against their political oppo-
nents.63 Such situations were typical for Armenia before the transition of power in
April-May 2018.

The incumbent government takes steps to transform the constitutional declara-
tions of fundamental values into operating legal provisions. The change of approach
to the fundamental constitutional values can also be noticed on the level of political
discourse. Comparing the Programs of governmental activities, one may notice that
the Government under the rule of the Republican Party stressed the necessity of
creating “the legal basis ensuring the efficiency of public administration in the par-
liamentary system, the authorities’ responsibility and accountability to the public,
and the rule of law” and focused mainly on legislative and institutional reforms.64
Pashinyan’s Government underlines that in the area of the said constitutional values
and principles there is no legislative gap but the problem was with the political will
of the authorities to properly implement them.65

What was defined in the scholarship as necessary for the democratic transition in
Armenia—“dissolving of the oligarchic economic and political structures” and
“reconfiguration of relations” between the state, individuals and civil society66—is
currently in the focus of governmental activities.67 The former is achieved through
the implementation of anti-corruption measures and investigation of corruption-
related crimes. The latter—through the strengthening of the rule of law. Of particu-
lar importance in this regard is the initiation of investigation of the human rights
violations during the Republic Party’s ruling, including the violent suppression of
peaceful protests against the electoral fraud in March 2008. In July 2018, criminal
charges were filed against the highest officials, including the then President
R. Kocharyan who was charged with “overthrowing of the constitutional order in
Armenia”.68 However, the judicial proceedings in this case in the courts of all
instances, including the Constitutional Court, highlighted the existing institutional
problems of Armenian judiciary and the need of a systematic change.

62 Vorländer (2002), p. 256.
63 Börzel and Pamuk (2011a, b).
64 See sections “Vision and goals of the RA Government Program” and 1.3. “Human rights protec-
tion, justice and fight against corruption” of the Program of Government of Armenia for 2017–2022.
65 See section 5.1 “Equality before the law, justice and human rights protection” of the Program of
the Government of Armenia for 2018.
66 Payaslanyan (2011), p. 293.
67 See the Programs of the Government of Armenia for 2018 and 2019–2023.
68 Radio Free Europe/Radio Liberty’s Armenian Service (26 July 2018b).
In October 2019, in line with the CEPA Implementation Roadmap, Armenian Government approved the Strategy of Judicial and Legal Reform for 2019–2023 and its Action Plan and, in December 2019, the National Strategy for the Protection of Human Rights and its Action Plans for 2020–2022. The strengthening of the rule of law is in the core of the Strategy of Judicial and Legal Reform. It particularly aims to introduce the mechanism of transitional justice establishing a Fact-Finding Commission to collect the “facts concerning the mass, periodical violations of human rights at least in the following fields: (a) all the electoral processes since September 1991; (b) political persecutions in the post-election processes since September 1991; (c) compulsory alienations of property for the needs of the state or the society in Armenia; (d) other forms of expropriations; (e) servicemen deceased at non-combat conditions”. The Strategy further presupposes conducting the electoral reform and developing the e-justice platform. One of the central issues in the Strategy is the comprehensive constitutional reform aiming at the revision of the Constitution controversially amended in 2015. The draft amendments to the Constitution are to be elaborated by the Expert Constitutional Commission by 1 September 2020. In addition to the planned comprehensive constitutional reform, it is planned to introduce the constitutional amendments aiming to resolve the crisis of legitimacy of the Constitutional Court caused by the situational and inconsistent changes introduced to the Constitution in 2015. The relevant draft law amending the Constitution in part of the transitional provisions concerning the formation of the Constitutional Court and the term of office of its President (Art. 213 of the Constitution) had to be approved by the popular referendum planned for 5 April 2020. However, due to the quarantine measures in response to the COVID-19 threat, the referendum was cancelled. Therefore, at the time of writing, the necessity to reform the body of constitutional justice remains one of the pressing needs.

The observation of recent political, legal and social developments in Armenia allows concluding that the process of internalisation of the EU ‘shared’ values is in progress. As Prime Minister Pashinyan has underlined, democracy is viewed by the incumbent authorities as a “firm belief”, and not as a “geopolitical orientation”. He stressed that it is the aim of the government to conduct effective legal and political reforms and—with or without participation of the EU—these reforms will be implemented as essential for the development of the country. Taking into consideration the ongoing internal processes of democratisation and attempts to strengthen the rule of law, CEPA’s ‘socialisation’ mechanisms (particularly in a form of ‘dialogues’ and ‘exchange of information’ on various issues between the parties, including the dialogues between their civil societies, as well as educational opportunities) can facilitate the transformative influence of CEPA on Armenian society. The financial

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69 Decision of the Government of Armenia N 1441-L of 10 October 2019 on the approval of the Strategy of Judicial and Legal Reform for 2019-2023 and the Action Plan thereof.
70 Approved by the Decision of Government of 26 December 2019 N 1978 - L.
71 Decision of the Prime Minister of 12 February 2020 N 181-A on Establishing of the Expert Commission on Constitutional Reform.
72 Prime Minister of the Republic of Armenia (12 July 2018).
and expert assistance provided by the EU in the framework of CEPA implementation is another important factor facilitating the conduct of the planned legal and political reforms.

4.2 **CEPA and the Constitution of Armenia: Possible Conflicts**

Notably, the issue of fundamental values may also formally create the obstacles for proper implementation of CEPA.

With the reference to the global values of international peace and justice, CEPA states that “[t]he Parties shall aim to enhance cooperation in promoting peace and international justice by ratifying and implementing the Rome Statute of the International Criminal Court and its related instruments, and taking into account their legal and constitutional frameworks.”

According to the Decision of the Constitutional Court of 13 August 2004, the Statute of the ICC contradicts the Constitution of Armenia, limiting its sovereignty and restricting the constitutional rights of individuals. Particularly, its provisions stating that ICC should be complimentary to the national criminal justice system are not in compliance with the constitutional norms defining the domestic judicial system and not presupposing the possibility to compliment it through the international treaties. Furthermore, the absence of the right to be pardoned or amnestied restricts the scope of fundamental rights guaranteed by the Constitution.

The Court underlined that the ratification of the Rome Statute would only be possible in case of introducing relevant provisions to the Constitution. Nevertheless, neither the constitutional amendments of 2005, nor the reform of 2015 enabled the ratification. It is possible that the issue will be tackled by the Expert Constitutional Commission established in 2020 to elaborate a concept and a proposal for comprehensive amendments to the Constitution; however, at the moment of writing, there is no available data reflecting the content of the future concept of the constitutional reform.

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73 Art. 6(2) CEPA. Art. 6 has been excluded from the regime of provisional application.
74 Decision of the Constitutional Court DCC-502.
75 Then Art. 91 and 92 of the Constitution of RA.
76 Then Art. 40 and 81 of the Constitution of RA.
77 Specialized Commission on Constitutional Reforms adjunct to the President of RA, draft of 2 September 2014: para. 2.6.4.
78 The Expert Constitutional Commission is established by Decision of the Prime Minister 181 - A of 12 February 2020 based on the Decision of Government 1441-L “On the Approval of the Strategy of the Judicial and Legal Reforms of the Republic of Armenia for 2019–2023 and the Action Plans Thereof” of 10 October 2019. The first meeting of the Commission took place on 21 February 2020.
4.3 **CEPA and EAEU Treaty**

As it has been stated above, one of the particularities of CEPA is that it was concluded in the circumstances of Armenia’s membership in another economic integration project—the Russia-led EAEU. Although the new Agreement takes “full account of Armenia’s obligations as a member of the Eurasian Economic Union”, this, however, does not exclude the possibility of potential conflicts between EAEU norms and provisions of CEPA, specifically in the areas of cooperation covered by both CEPA and EAEU Treaty. One of the reasons of these potential conflicts may be rooted in the immanent weaknesses of the EAEU legal framework. Among such specific features of the EAEU law that potentially can affect the implementation of CEPA Dragneva *et al.* identify: “the mixture between current and future commitments, the problematic institutional boundaries between the members’ commitments and delegated powers, and the prevalence of power relations within a highly asymmetric hub-and-spoke context”.80

Notably, in the course of negotiations, “to ensure that the values underpinning CEPA remain firm”, the EU rejected a “carve-out clause” proposed by the Armenian side which would allow Armenia “to opt out of the commitments enshrined in CEPA in areas where the Eurasian Economic Union might make new provisions”.81

4.4 **The Place of Decisions of CEPA’s Institutions in the Armenian Domestic Legal Order**

Another important issue to be examined is the place of binding decisions of the Partnership Council and Partnership Committee in the Armenian legal order. Arguably, such decisions can be classified into two categories: (1) the decisions of the Council by which the Annexes to CEPA will be updated to consider the development of the EU legislation for legislative approximation;82 and (2) other decisions of CEPA’s institutions. Under the Armenian constitutional law, the implementation of the decisions of the first type presupposes ratification of the amendments to the Annexes in the same manner as the Agreement itself is ratified,83 including the preliminary control of constitutionality by the Constitutional Court.

On the second type of decisions, the Constitution of Armenia does not contain any provision specifying the place of the acts of the bodies established under the international treaties in domestic legal order. Arguably, in relation to the decisions adopted by CEPA institutions, the legal positions formulated by the Constitutional

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79 European Commission, European External Action Service, 25 September 2017.
80 Dragneva *et al.* (2017, November: 12).
81 Kostanyan and Giragosian (2017), p. 7.
82 Art. 371 CEPA.
83 See the Decision of the Constitutional Court DCC-1407 (para. 11).
Court in the case concerning constitutionality of the EAEU Treaty\textsuperscript{84} may be applicable. Particularly, the Court pointed out the existence of specific constitutional requirements to the acts of international/supranational organisations in the Armenian legal order. In addition to the principles of sovereignty, legal equality of the parties and mutual expediency of international cooperation, the Court (1) highlighted that the restrictions on human rights [possibly resulting from participation in a supranational organisation] should comply with the norms and principles of international law and (2) recognised that operation of the decisions of supranational bodies in Armenia is possible only within the scope of their compliance with the Constitution.\textsuperscript{85} The Court formulated the legal position of general applicability holding that “any decision adopted by any supranational body with the participation of the Republic of Armenia which is not in conformity with these requirements is not applicable in the Republic of Armenia. If the requirements are met, cooperation of Armenia with any international or regional organization will not raise the issue of constitutionality.”\textsuperscript{86}

In the Decision of 10 October 2017 concerning the conformity of the Agreement on the Customs Code of EAEU with the Constitution of Armenia,\textsuperscript{87} the Constitutional Court differentiated between legal acts of international and supranational nature. While the acts of the first category, in the Court’s definition, regulate ‘horizontal’ relations between the subjects of international legal relations, the acts of the second category regulate vertical relations between a state and subjects within a state, thus directly affecting individuals. Therefore, the supranational acts during their implementation can potentially violate constitutional rights; […]. However, evaluation [of constitutionality of such acts] is possible only when there is a practice of application of a supranational act.\textsuperscript{88} In other words, the position of the Court can be interpreted as follows: the recognition of constitutionality of an international agreement within the procedure of the preliminary constitutional control does not mean the automatic recognition of the constitutionality of acts adopted by the supranational institutions on its basis. The constitutionality of the latter can be challenged \textit{a posteriori}; however, it can be challenged only indirectly—through the acts of domestic implementation and only if the issue of constitutionality of such implementation acts is under the jurisdiction of the Constitutional Court. Reviewing CEPA, the Court did not analyse the content of the Annexes and the compatibility of specific \textit{acquis} with Armenian Constitution. Presumably, in case of amending the Annexes, the Court will also formally review only the obligation to approximate and leave it to the legislator to resolve the substantive issue of transposition first (with the possibility of constitutional control of approximated national law \textit{a posteriori}).

\textsuperscript{84} Decision of the Constitutional Court DCC-1175.
\textsuperscript{85} Ibid, para. 7.
\textsuperscript{86} Ibid.
\textsuperscript{87} Decision of the Constitutional Court DCC-1381.
\textsuperscript{88} See argumentation in para. 5 of the Decision DCC-1381.
On the second type of decisions, currently Armenian legislation does not define their legal status and implementation procedure and does not enable the direct effect of the acts adopted by CEPA’s institutions. Noteworthy, the implementation of the acts of the Eurasian Economic Commission has been recently regulated in a specific provision of the Law “On Legislative Acts”. Art. 24 of the said Law prescribes that in case when the Eurasian Economic Commission adopts an act the subject matter of which belongs to the areas requiring regulation by laws adopted by the Parliament of Armenia, the Government should exercise the legislative initiative and introduce a relevant implementing draft law to the Parliament. In all other cases, the Government adopts an act giving effect to the act of the Commission.

Before the adoption of the new Law “On International Agreements” in March 2018, the previous Law “On International Agreements” of 2007 contained provisions regulating the implementation of acts adopted by international organisations (which could have been arguably applied by analogy in the case of CEPA). The new Law “On International Agreements” and the recently adopted Law “On Legislative Acts” are silent in this regard.

Apparently, the results of analysis of regulation of the status CEPA and acts of CEPA’s institutions in domestic legal order indicate the necessity to revise the legislative framework and adapt it to the recent developments in the area of regional integration. To guarantee legal certainty and ensure effectiveness of implementation of the Agreement, it would be appropriate to clearly regulate the procedural issues of operation of such acts in the Armenian legal system as it was done in case of the EAEU acts.

5 The Tools of the EU Values Promotion: CEPA’s Essential Elements and Conditionality Mechanisms

In the same way as in AAs with Georgia, Moldova and Ukraine, two types of conditionality can be distinguished in CEPA: “common values” conditionality and “market access” conditionality. As Kochenov observes, these two types of conditionality serve to export EU values in the former case, and EU acquis (as a set of rules) in the latter case. Although this methodological distinction (as well as Kochenov’s conclusion that exporting EU acquis does not mean exporting the EU values) is justified, in the case of CEPA it is not that strict. This is because of the Agreement’s focus not only on formal transposition of the acquis into domestic legal system, but also on proper implementation and enforcement of the

89 Law of RA HO-180-N “On Legislative Acts” of 21 March 2018.
90 Law of RA HO-213-N “On International Agreements” of 23 March 2018.
91 Petrov et al. (2015), pp. 12–13; Petrov (2016).
92 Kochenov (2014), p. 56.
approximated legislation, which inevitably requires systematic change and the implementation of the rule of law, good governance standards, anti-corruption measures, etc.

According to Poli, there are four main ways for the EU to promote its values through external action: (1) considering them as ‘essential elements’ of legally binding agreements with partner countries and associating non-execution clause in case of breach; (2) encouraging the third countries to ratify and implement the legally binding multilateral agreements based on universal values; (3) making the values a prerequisite for receiving financial assistance from the EU (particularly within European Neighbourhood Instrument) and (4) applying sanctions in case of the failure to respect democracy.93

The analysis of the Agreement allows concluding that, in part of values promotion, CEPA relies on the first three ways identified above. Art. 2 and 9 contain the essential elements establishing the value basis of the Agreement (first way). Art. 6 of CEPA illustrates the second way stressing the values of peace and international justice and requiring ratification and implementation of the Rome Statute of the International Criminal Court and its related instruments. The third way, however, in the context of CEPA should be viewed broader than in the classification provided by Poli. It should be defined as making the implementation of values a prerequisite within the conditionality mechanisms generally. The incentives of such mechanisms obviously cannot be restricted to the receiving of financial assistance only; although the conditionality based on the “financial assistance” incentive can also be found in CEPA (see, for example, Art. 344 stating that the amount of financial assistance provided by EU to Armenia “shall take into account the Republic of Armenia’s needs, sector capacities and progress with reforms, in particular in areas covered by this Agreement” (italics added – A.Kh.).

Under Art. 2(1) of CEPA, respect for the democratic principles, the rule of law, human rights and fundamental freedoms constitute an essential element of the Agreement. This provision contains an extensive and open-ended list of international instruments in the field of human rights and fundamental freedoms (of both binding ‘hard’ law and non-binding ‘soft’ law nature) which, according to the Agreement, the parties must adhere to in their domestic and external policies. Noteworthy, the rule of law is further stressed in Art. 12 of CEPA as a basis for cooperation of the parties in the area of freedom, security and justice. Under this article, the consolidation of the rule of law includes “the independence of the judiciary, access to justice, the right to a fair trial as provided for by the European Convention on Human Rights, and procedural safeguards in criminal matters and victims’ rights”.

The principles of a free-market economy, sustainable development, regional cooperation and effective multilateralism, good governance and respect to international obligations, etc. listed further in Art. 294 are not included in the

93 Poli (2016), p. 2.
94 Art. 2 (2)(3)(4) CEPA.
essential element clause; however, they are fundamental for the relations under the Agreement and can be viewed as the elements of CEPA’s conditionality mechanisms.

Another essential element of CEPA is included in Art. 9 devoted to the weapons of mass destruction, non-proliferation and disarmament. This essential element is standard for the EU’s agreements with third countries. As Cremona observes, the WMD clauses have been included to such instruments since 2003.95 Similar “essential elements” can be found, particularly in the AAs with Georgia, Moldova and Ukraine.96

The “essential element” clauses are accompanied with the non-fulfilment clause.97 Additionally, the importance of the commitments under the essential element clauses is stressed in the Preamble.

It can be concluded from the provisions analysed above that the essential element clauses in combination with non-fulfilment clause and preambular references to the parties’ commitments constitute one of the mechanisms of value conditionality. It presupposes that all the provisions of CEPA (including the provisions on economic cooperation and trade relations) can effectively operate only if the specific principles and values are respected by the parties.

Another specific conditionality mechanism in the ‘political part’ of the Agreement can be found in Art. 15 of CEPA, under which the parties are obliged to fully implement Visa Facilitation and Readmission Agreements. In case of fulfilment of these obligations and provided that conditions for well-managed and secure mobility are in place, the parties shall consider in due course the opening of a visa-liberalisation dialogue. Considering the experience of the EaP associated countries, the visa liberalisation dialogue will focus, in addition to the security benchmarks, on the benchmarks related to fundamental rights;98 thus, the perspectives of visa liberalisation offered in CEPA can also serve as a stimulus for proper implementation of the ‘common’ values in this area.

If the political part of CEPA resembles the political part of the failed EU-Armenia AA and is mostly similar (with some exceptions) with the political parts of the AAs with Georgia, Moldova and Ukraine, this is not the case on the economic part of the Agreement and the relevant “market access” conditionality mechanisms. Considering the absence of the DCFTA incentives and narrower scope of economic and trade cooperation, market access conditionality is significantly “weaker” in CEPA’s case.

Under Art. 373 (2), “if the Parties agree that necessary measures covered by Title VI99 [including the legislative approximation to the EU acquis] have been implemented and are being enforced, the Partnership Council […] shall decide on further market opening where provided for in Title VI”.

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95 Cremona (2016), pp. 85–86.
96 Art. 10 of EU-Georgia AA; Art. 9 of EU-Moldova AA; Art. 11 of EU-Ukraine AA.
97 Art. 379 CEPA.
98 European Commission (2018).
99 Trade and trade-related matters.
The examination of the relevant provisions of Title VI reveals the conditionality mechanisms of different level of specification. For example, in case of establishment,100 “with a view to progressively liberalising the establishment conditions, the Partnership Committee, when meeting in trade configuration, shall regularly review the legal framework and the environment for establishment”. Here, although the objective (progressive liberalisation) is defined, the precise benchmarks for evaluation of the implementation of the parties’ commitments are not specified.

More precise is Art. 152 related to the cross-border supply of services. Particularly, “with a view to progressively liberalising the cross-border supply of services between the Parties, the Partnership Committee, meeting in trade configuration, shall regularly review the list of commitments referred to in Articles 149 to 151 [market access commitments]. That review shall take into account, inter alia, the process of gradual approximation, referred to in Articles 169, 180 and 192, and its impact on the elimination of remaining obstacles to the cross-border supply of services between the Parties”. The listed articles concern the approximation to the EU acquis regulating postal services, electronic communication networks and transport services respectively.

Considering its role in the implementation of the objectives of the Agreement, the issue of legislative approximation deserves specific attention.

6 Legislative Approximation and Regulatory Convergence Under CEPA

6.1 Mechanisms of Legislative Approximation and Achieving of Regulatory Convergence

The mechanisms of legislative approximation employed in CEPA resemble the mechanisms of the AAs, although they are less advanced and ambitious due to CEPA’s more modest objectives. At the same time, in contrast with the EU-Armenia PCA containing only one general and legally non-binding approximation clause,101 CEPA’s approximation mechanisms are significantly more elaborated, diverse and framed with the provisions of binding nature.

In CEPA, two categories of legislative approximation provisions can be differentiated: (1) those establishing mechanisms of approximation in the specific sectors of cooperation (transport, energy, environment, employment, social policy and equal opportunities, etc.) and (2) ‘horizontal’ provisions supplementing the sectoral approximation mechanisms.

100 Chapter 5 Trade in services, establishment and electronic commerce of Title VI of CEPA.
101 Art. 43 of PCA.
In the first group of provisions, the following types of legislative approximation clauses can be identified:

(a) The provisions requiring implementation of the international instruments and compliance with the international standards promoted by the EU. These commitments can be either general (for example, Art. 13 related to personal data protection; Art. 24 related to public internal control and external audit) or specifically defined (for example, the provisions requiring implementation of the specific Conventions in the field of intellectual property).

(b) The provisions containing general requirement to approximate Armenian legislation with the EU acquis without specification of the relevant EU acts and the timeframes of approximation. The formulation and binding character of such requirements, as well as expected degree of approximation/convergence vary. Under Arts. 169, 180, and 192 of Title VI “Trade and Trade-Related Matters” which are key elements of the conditionality mechanisms relevant to the liberalisation of cross-border supply of services, “parties recognise the importance of gradual approximation” of Armenian legislation on postal services, electronic commerce and transport services to that of the EU. Under Art. 189, “the Republic of Armenia shall approximate its regulation of financial services, as appropriate, to the legislation of the European Union”. Art. 130 dealing with cooperation in the field of technical barriers to trade states that “the Parties shall endeavour to establish and maintain a process through which gradual approximation of the technical regulations, standards and conformity assessment procedures of the Republic of Armenia to those of the European Union can be achieved”. Under Art. 81 related to the consumer protection, the parties “shall cooperate to promote agricultural and rural development, in particular through progressive convergence of policies and legislation”. There are also a few ‘soft’ provisions employing “taking into account” and “making efforts” formulas (for example, Arts. 30 and 33 of CEPA related to statistics);

(c) The provisions containing standard approximation clause with the indication of specific EU acts and the timeframes for their implementation (in the Annexes to the Agreement).102 Such provisions can be found in Title V (Other cooperation policies) and Title VII (Financial Assistance and Anti-Fraud and Control Provisions). They do not lead to the opening of the market but may be the elements of other conditionality mechanisms.

Some areas of cooperation (company law, accounting and auditing, and corporate governance, industrial and enterprise policy, cooperation in the areas of

102 These are: Article 41 with Annex I (transport), Art. 44 with Annex II (energy), Art. 50 with Annex III (environment), Art. 56 with Annex IV (climate), Art. 65 with Annex V (information society), Art. 83 with Annex VI (consumer protection), Art. 90 with Annex VII (employment, social policy and equal opportunities), Art. 361 with Annex XII (anti-fraud regulations).
banking, insurance and other financial services) do not presuppose any form of binding legislative approximation. However, the Armenian legal system may benefit from the improvement of national legislation in these areas through the exchange of information and best practices with the EU. Furthermore, the legislative approximation can be done on a voluntary basis and go beyond the formal requirements of CEPA. The scope of such voluntary approximation will depend on political will of decision-makers to choose EU regulatory approaches as models for domestic reforms, as well as on the level of influence (both formal and informal) of the EAEU in the relevant sectors of regulation.

The second group (‘horizontal’ legislative approximation provisions) includes inter alia Art. 370 enshrining the general obligation of Armenia to “carry out gradual approximation of its legislation to EU law as referred to in the Annexes, based on commitments identified in this Agreement, and in accordance with the provisions of those Annexes” while making the exceptions for “specific provisions under Title VI”.

Art. 371 states that “in line with the goal of the gradual approximation of the legislation of the Republic of Armenia to EU law, the Partnership Council shall periodically revise and update the Annexes to this Agreement in order, inter alia, to reflect the evolution of EU law and applicable standards set out in international instruments deemed relevant by the Parties, taking into account the completion of the Parties’ respective internal procedures”. The said article is titled “Dynamic approximation”. However, based on comparative analysis of this provision with the relevant clauses in other agreements between the EU and third countries, it may be argued that the established mechanism is in fact rather static than dynamic, since, as Van Der Loo defines, “there is no obligation to automatically adopt every amendment to the EU acquis that could potentially be relevant to the agreement”. 103 As it was shown above, the Constitutional Court of Armenia held with reference to its case law that such revision of the Annexes will be considered as amendment of the Agreement and will require ratification in the same manner as the Agreement itself. 104

To achieve its goals, legal approximation presupposes the existence of effective institutional mechanisms and methodological frameworks. The institutional mechanism of legal approximation in Armenia at this stage is integrated into the institutional mechanism of CEPA implementation and includes several governmental bodies. The National Assembly (Parliament) as the legislative body is responsible for adopting laws in line with the EU acquis; its Standing Committee on European Integration focuses on the relations with the European Union, issues related to the implementation of CEPA, approximation of laws of Armenia to legal acts of the EU and laws governing these areas. The Government is the main policymaker and a subject of legislative initiative. Within the structure of Government, coordination of the work within the framework of CEPA was defined as a function of Deputy Prime

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103 Van Der Loo (2014), p. 78.
104 Decision DCC-1407 (para. 11).
Minister’s Office.\textsuperscript{105} Deputy Prime Minister chairs the Inter-Agency Committee coordinating the measures ensuring the implementation of CEPA.\textsuperscript{106} By his Decision, Prime Minister approved the EU-Armenia CEPA Implementation Roadmap elaborated by the Inter-Agency Committee\textsuperscript{107} and entitled the Committee to monitor the implementation of CEPA based on the Roadmap. This document identifies the areas of reforms planned by Armenian Government and the legal basis of relevant commitments (provisions of CEPA and EU acts listed in its Annexes), specifies measures to be taken to implement them, timeframes and governmental bodies that coordinate or are responsible for implementation of the identified measures, indicates the necessity of EU’s support (for example, through TAIEX programme) and outlines expected outcomes.

The Ministry of Economy is responsible for the implementation of trade-related provisions of CEPA.\textsuperscript{108} The Ministry of Justice plays a leading role in the processes of legal approximation and, under the coordination of the Deputy Prime Minister’s Office, is one of the key governmental agencies to shape the public policy in the respective sectors of EU-Armenia political dialogue under CEPA. The Ministry took the lead in developing the methodological guidelines for the agencies involved in legal approximation. With support of and in cooperation with the EU in the framework of the project “Assistance to the RA Ministry of Justice in Legal Approximation in Line with EU Standards” (2019–2020), the Ministry prepared “Armenia-EU Comprehensive and Enhanced Partnership Agreement Legal Approximation Handbook” (2020) and organised a series of training sessions on methodology of legal approximation for about 80 civil servants.\textsuperscript{109} This is a significant step on the way to the improvement of quality of legal approximation, as previously there had been no comprehensive toolkit facilitating legislative approximation activities.

An effective dialogue between policymakers and academia on the issues of legal approximation is another tool stimulating further development of the Armenian legal system and its Europeanisation. Although there are initiatives aiming to build such dialogue,\textsuperscript{110} a lot is still to be done to intensify research on the approximation issues (particularly using interdisciplinary synergies allowing comprehensive approach to the required changes) and develop effective communication channels between academic community and practitioners.

\textsuperscript{105}See the Decision of the Prime Minister N 671-L of 1 June 2019.

\textsuperscript{106}The Committee was set up by the Decision of Prime Minister N 906-A of 2 July 2018.

\textsuperscript{107}See the Decision of the Prime Minister of Armenia N 666-L of 1 June 2019.

\textsuperscript{108}See the Decision of the Prime Minister No 658-L of 1 June 2019.

\textsuperscript{109}Based on the expert interview with Ms. Amalia Hovsepyan, Coordinating Advisor for International Legal Cooperation, Ministry of Justice of the Republic of Armenia, 30 March 2020. The presentation of the Handbook and organisation of further training on its basis have been postponed due to the coronavirus crisis.

\textsuperscript{110}For example, Legal Approximation Laboratory project implemented by Brusov State University and supported by the EU through the Erasmus+ Programme (Jean Monnet Module “Laboratory of Approximation of Armenian Legislation with the EU Acquis”).
It should be noted that the legislative approximation to the EU *acquis* is not a new phenomenon for the Armenian legal system. Some efforts of approximation were made under the PCA, ENP Action Plan and during negotiations concerning the failed AA and DCFTA. However, regardless of some achievements,\(^{111}\) this process generally hardly can be defined as successful, as it lacked coherence, systematic approach and common methodological ground. The implementation of the approximated legislation was particularly problematic. For example, Ghazaryan and Hakobyan report on the active and extensive approximation of the Armenian competition law in the framework of the ENP and achieving compliance with the EU dynamic *acquis*.\(^{112}\) However, the formal compliance of the domestic legislation with the dynamic EU competition *acquis* in no way touched upon the problem of politically supported artificial oligarchic monopolies that existed before 2018, therefore not affecting in practice the economic environment of the country.

In contrast with PCA, alongside the establishment of the advanced approximation mechanisms, CEPA underlines the importance of implementation and enforcement of the approximated legislation and establishes specific mechanisms of monitoring and assessment of approximation.\(^ {113}\) In addition to the reporting on the progress made on approximation, the assessment “may include on-the-spot missions, with the participation of institutions of the European Union, bodies and agencies, non-governmental bodies, supervisory authorities, independent experts and others, as necessary”.\(^ {114}\) This novelty is similar to the approach of AAs and may be considered a reaction to the shortcomings of the previous approximation attempts.

### 6.2 The Role of Judiciary in the Processes of Legal Approximation

#### 6.2.1 The Role of the Court of Justice of the European Union

Arguably, there are two ways the CJEU can contribute to the processes of legal approximation under the Agreement: (1) actively—through the preliminary rulings within the arbitration proceedings of dispute resolution under CEPA; and (2) passively—through the voluntary application of the CJEU case law by the domestic courts.

According to CEPA, the legislative approximation mechanisms established by Articles 169, 180, 189 and 192 (although not being supplemented with the lists of the EU acts for approximation) presuppose specific procedure of dispute settlement by the arbitration panel. Particularly “where a dispute raises a question of

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\(^{111}\) See, for example, Delcour and Wolczuk (2015), pp. 491–507.

\(^{112}\) Ghazaryan and Hakobyan (2014), p. 201.

\(^{113}\) See, particularly, Preamble and Art. 372 CEPA.

\(^{114}\) Art. 372 CEPA.
interpretation of a provision of Union law, the arbitration panel shall request the
[CJEU] to give a ruling on the question provided that question is necessary for the
decision of the arbitration panel. […] The ruling of the [CJEU] shall be binding on
the arbitration panel”.115

Similar mechanisms can be found in the AAs with the EaP countries (however,
in contrast with CEPA, these provisions contain the lists of the EU acts to be trans-
posed). As Van Der Loo observes in relation to the EU-Ukraine AA, the established
mechanism is a novelty in the EU practice of bilateral relations and is called to
ensure the uniform interpretation of the EU acquis in such relations.116 Arguably, it
will also stimulate the absorbing of the CJEU case law by the domestic legal order.

The possibilities of voluntary application of the CJEU case law by Armenian
judiciary are discussed in the following part of the Chapter.

6.2.2 The Role of Domestic Courts

Apparently, CEPA’s focus on the implementation and enforcement of the approxi-
mated legislation indicates the significant role of the judiciary in the process of
Europeanisation of the Armenian legal system. The main mission of the judiciary is,
therefore, to properly apply the national legislation adhering to the fundamental
principles of administration of justice. In some cases, however, such proper imple-
mentation may demand considering EU acquis, including the CJEU case law, for
interpretation of national legislation. This is not however formally required by
CEPA and, consequently, there is no domestic legislation enabling or requiring such
application (in contrast with the case law of ECtHR recognised as an official source
of law in Armenia).117

Arguably, the following obstacles will affect such application:

(1) the nature of legal approximation commitments under CEPA, the absence of
a clear EU-oriented vector of foreign policy and the presence of the concurring
EAEU integration project limiting the possibility of judicial pro-European
activism. This makes the case of Armenia significantly different from the cases
of Central and East European countries where explicit orientation towards EU
and related domestic policy choices, clear membership perspective and stricter
obligations to harmonise national legislation with the EU acquis created favour-
able grounds for judicial activism and led to the establishment of practice of
‘EU-friendly’ interpretation of domestic legislation.118

(2) inaccessibility of the CJEU case law because of the linguistic barrier, lack of
awareness about the relevant decisions and skills of using the searching tools.
With some rare exceptions, the university curricula usually cover only funda-

115 Art. 342 (2) CEPA.
116 Van Der Loo (2014), p. 82.
117 Art. 15 of the Judicial Code of RA.
118 Kühn (2005), pp. 566–568.
mentals of EU law and are not oriented towards skill-training. There is also lack of scholarly studies on the issues in question as well as a dialogue between academia and practitioners serving as an informal channel of Europeanisation.

(3) the lack of coherent theory and practice of judicial argumentation based on the up-to-date methodological approaches, due to the long-lasting dominance of legal positivism, generally\textsuperscript{119} and the lack of experience of using EU \textit{acquis} in argumentation particularly.

One of the rare examples of using the EU \textit{acquis} by the Armenian courts of general jurisdiction is the judgment in \textit{I. Avagyan v. “Prometey Bank”}\textsuperscript{120} on the recognition of the arbitration clauses of the loan agreements as invalid. In its argumentation, the Court refers to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958) ratified by Armenia and, additionally, states that “recent Directives of the European Union require the Member States to create the alternative dispute resolution mechanisms in a range of areas such as banking and financial services [...]. The Republic of Armenia undertook the obligation to establish the alternative dispute resolution procedure in accordance with international law”; then the Court mentions PCA, inclusion of Armenia in ENP in 2004 and states that under the ENP Action Plan, Armenia has also been obliged to create the arbitration procedures in compliance with international standards. The Court notes that the principles of out-of-court dispute resolution were enshrined in the Recommendation of the European Commission 1998/257/EC. In the following parts, the Court refers to the ECtHR case law. Noteworthy, this argumentative passage is literally reproduced from the defendant’s response to the claim reported in the descriptive part of the judgment.

In a number of cases—civil (\textit{R. Mantashyan v. “Prometey Bank”},\textsuperscript{121} “Ardshininvestbank” v. H. Harutyunyan concerning financial services\textsuperscript{122}) and administrative (\textit{J.N. Talavari v. State Migration Service of the Ministry of Territorial Administration and Emergency Situations of the Republic of Armenia},\textsuperscript{123} related to the issues of migration law and asylum)—the judgments of court of first and appellate instances contain the references to the EU \textit{acquis} (directives and soft-law) only in the descriptive parts restating the positions of the parties. Although the judges do not refer to these sources themselves in motivation parts, such references can

\textsuperscript{119}This problem is common for many post-communist legal systems. See, for example: Kühn (2005), Meleshevych and Khvorostyankina (2012), pp. 563–564.

\textsuperscript{120}I. Avagyan v. “Prometey Bank”, Judgment of the court of general jurisdiction of the administrative district Kentron and Norq-Marash, Yerevan of 3 April 2015, case No EKD/1929/02/13.

\textsuperscript{121}R. Mantashyan v. “Prometey Bank”, judgment of the Civil Appellate Court of the Republic of Armenia of 31 January 2014, case No EKD/2879/02/13.

\textsuperscript{122}“Ardshininvestbank” v. H. Harutyunyan, judgment of the court of general jurisdiction of Lori, Vanadzor, 19 September 2012 in case No LD/0317/02/12.

\textsuperscript{123}J.N. Talavari v. State Migration Service of the Ministry of Territorial Administration and Emergency Situations of the Republic of Armenia, Judgment of the Administrative Court of the Republic of Armenia of 9 March 2016, case No VD/7353/05/14.
informally influence further development of judicial argumentation in the future, providing other judges with the samples of argumentative patterns.

The Constitutional Court has been reluctant to refer to the EU acquis as well (in contrast with the law of ECHR and other acts of the CoE). The analysis of the relevant judgments shows that there is no coherent practice of referring to such sources. The references to the EU acquis (comprising EU soft law and CJEU case law) occur in the supportive arguments (which by themselves are used only occasionally when the arguments based on national legislation and binding international acts are lacking or not strong enough) and are rather exceptions than a well-established argumentative approach (see cases DCC-991, DCC-1051, DCC-1244). In the preparation of advisory opinions and examination of foreign legal materials, the Legal Advisory Department of the Court has not been usually covering the EU acquis as such, focusing mainly on the constitutional practice of individual European countries.124

Considering the methodological difficulties of applying EU acquis in judicial argumentation, this process could be facilitated through certain legislative drafting techniques. Particularly, the preambular125 references to the relevant EU acts in the approximated domestic legislation could serve as a ground for using both these acts and the case law interpreting them to construct the arguments based on the purposive and ‘legislator’s intent’ approaches. This would be particularly helpful considering the gradual and, in some cases, partial nature of legislative approximation: the indication of the actual scope of approximation by the legislator would determine the legitimacy and relevance of using CJEU case law in domestic judicial argumentation. The technique of preambular references is used, for example, in Moldova.126

In case of both approximation under CEPA and voluntary approximation going beyond the requirements of CEPA, preparatory materials (particularly explanatory notes accompanying the legislative drafts) can contain references to the implemented EU acts, thus facilitating using the judicial interpretation based on the “legislator’s intent” technique. Such references are frequent in the recent legislative drafting practice. For example, Law of RA N HO-134-N of 6 March 2020 amending Civil Code of Armenia of 1998 introduces the institute of repo agreement. In the explanatory note, the draftsman referred to Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (not covered by CEPA) justifying the chosen regulatory approach. Law of RA N HO-183-N of 3 October 2019 amends Art. 95 (fixed-term employment contract) of Labour Code of Armenia. In the explanatory note, the draftsman refers to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP (included in the Annex to CEPA) containing a similar regulatory provision. The explanatory note to the

124 Interview with Dr. S. Arakelyan, Head of the Legal Advisory Department of the Constitutional Court of RA, 15 March 2018.
125 Under Art. 13(1) of Law of RA N HO-180-N “On Legislative Acts” of 21 March 2018, preambles “define the objectives and reasons” of adopting a legislative act.
126 Khvorostiankina (2014), p. 168.
recently adopted Law of RA N HO-283-N of 4 December 2019 “On Audit Activity” makes a general reference to the “relevant EU Directives on audit and accounting”.

The references to the EU acts had been frequent before the conclusion of CEPA as well. This is particularly relevant in the case of draft laws elaborated during negotiations on EU-Armenia Association Agreement. Interestingly, in the period between Armenia’s U-turn to EAEU in September 2013 and the launching of negotiations on CEPA on 7 December 2015, the references to EU acts in drafter’s explanatory notes can also be found (see, for example, explanatory note to draft Law of RA N HO-49 of 18 May 2015 “On Personal Data Protection” and to draft Law N HO-52 of 18 May 2015 amending Law “On Refugees and Asylum Seekers” referencing to EU legislation on personal data protection). Arguably, to clarify the content of approximated provisions, judges may refer to the preparatory materials and relevant EU acquis including the CJEU case law interpreting the EU legislation.

Presumably, the use of the EU acquis in judicial argumentation will become more probable after the EU-Armenia CEPA enters into force. However, undoubtedly, application of the EU acquis will still be challenging for domestic judiciary. Particularly, the application of such source as CJEU case law will require not only specific knowledge and skills, but also the change of legal mentality based on the philosophy of legal positivism inherited from the Soviet period.

### 6.3 Absorbing of General Principles of the EU Law by Armenian Legal Order

It is necessary to stress that, in addition to the legislative approximation requirements in specific sectors, other commitments are also directed to the improvement of legislative regulation in Armenia generally. The provisions enshrining such commitments reflect the general principles of the EU law, such as predictability of legal regulation, legal certainty, quality of regulation, good governance, etc.

Particularly, under Art. 308, “[r]ecognising the impact which their respective regulatory environment may have on trade and investment between them, the Parties shall provide a predictable regulatory environment and efficient procedures for economic operators, in particular for SMEs” (italics added - A.Kh.). Under Art. 313, the parties shall cooperate in promoting regulatory quality and performance and support the principles of good administrative behaviour. Title VI (Trade and trade-related matters) sets out the requirements of legal certainty. Specifically, under Art. 309 (1), each party shall ensure that measures of general application (laws, regulations, decisions, procedures and administrative rulings that may have an impact on any matter covered by CEPA) adopted after the entry into force of the Agreement:

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127 Art. 307 (a) CEPA.
(a) are *promptly and readily available* via an officially designated medium, including electronic means, in such a manner as to enable any person to become acquainted with them;
(b) *clearly state* to the extent possible, the objective of and rationale for such measures; and
(c) allow for a *sufficient period* of time between publication and entry into force of such measures, except in duly justified cases.

Undoubtedly, these provisions have the potential to positively influence the development of the Armenian legal system in case of their full and proper implementation. This will require both the improvement of legislatives techniques and establishing and maintaining the high standards of administrative and judicial procedures.

## 7 Conclusion

The newly signed EU-Armenia Comprehensive and Enhanced Agreement is a unique legal instrument regulating the relations between the EU and a country which is a member of another economic integration organisation—Eurasian Economic Union. Armenia’s participation in the EAEU caused the necessity to adjust the text of the failed EU-Armenia Association Agreement to consider the international obligations under EAEU Treaty. Consequently, the new Agreement—CEPA—does not presuppose the creation of the DCFTA, thus lacking one of the most significant incentives the EU can offer to the countries without membership perspectives and aspirations. This, at first sight, weakens to a certain extent the mechanisms of the EU rules and values transfer in comparison with the AAs with Georgia, Moldova and Ukraine. Furthermore, proper implementation of CEPA may be hindered by the potential collisions between the Agreement and EAEU law.

However, in the field of the ‘shared values’ promotion, the transformative potential of the Agreement is significantly reinforced with its consistency with the reform agenda of the incumbent post-Revolutionary government. Undoubtedly, the recent peaceful transition of power in Armenia in April-May 2018 created specific environment for CEPA’s implementation. Previously, the ruling elites frequently underlined their commitment to adhere to the European values in both domestic and international discourses; however, the reality of implementing these values in practice significantly differed from what was declared, and the introduced reforms were often a façade change or even ‘Europeanisation pathologies’. The incumbent government, to the contrary, tends to avoid references to the ‘Europeanness’ of the supported constitutional values in political discourse underlining the genuinely domestic character of current political developments. At the same time, the initiated reforms aim to bring the systemic change. If the reforms are coherently implemented and are themselves substantially and procedurally in compliance with the
fundamental constitutional values, this will undoubtedly create the favourable environment for the implementation of the Agreement. At the same time, the analysis reveals that the proper implementation of the Agreement can be hindered by several factors. Firstly, at the moment, the comprehensive legislative framework for CEPA’s implementation is lacking (the status of the decisions of CEPA’s institutions and institutional and methodological aspects of legislative approximation need clear legislative regulation). Furthermore, the judiciary, which is expected to be the main channel of absorbing the European norms and principles and the guarantor of proper implementation of the approximated legislation, needs to develop new knowledge, skills and methodological approaches. This is caused particularly by the necessity to consider the case law of the CJEU. Although there is no such requirement in CEPA (in contrast with AAs and some other EU external agreements), this may be essential for proper interpretation and implementation of the ‘Europeised’ legislation.

The transformative capacity of the Agreement, consequently, depends on the ability of the Armenian legal order to overcome the said obstacles. Proper implementation of approximated legislation following CEPA’s provisions requiring legal certainty and predictability, regulatory quality, transparency of regulation, good administrative behaviour, etc. will surely contribute to further improvement of the Armenian legal system. Apparently, this may be achieved only under the circumstances of comprehensive and systematic governmental approach to the implementation of the required reforms and further socialisation of domestic actors facilitating the internalisation of the ‘shared’ values.

8 Epilogue

On 27 September 2020, the territory of Nagorno-Karabakh was attacked by Azerbaijan with the direct support of Turkey. In Armenia, martial law and general mobilisation were declared. The resulting large-scale war with heavy casualties on both sides marked not only the unfreezing and escalation of the long-lasting Nagorno-Karabakh conflict, but also the dramatic transformation of its nature with the potential to change the geopolitical balance of power in the South Caucasus and beyond. With the significant disparity of military forces, deployment of cutting-edge weapons and mercenaries fighting on Azerbaijan’s side, with references to the Armenian Genocide of 1915 and a demonstration of imperialistic ambitions in the rhetoric of the Turkish government, the war became not a territorial, but an existential issue for Armenians. After six weeks of fighting, the hostilities were finally terminated on 10 November 2020 with the signing of the Russian-brokered Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation of 9 November 2020.\footnote{\textsuperscript{128}Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation. \url{https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/}. Accessed 18 November 2020.}
According to the Statement, the Parties agreed to establish a complete ceasefire and stop at their current positions. Azerbaijan was permitted to keep the territories of Karabakh captured during the war, as well as surrounding territories which used to be under the Armenian control. The document did not define the status of Nagorno-Karabakh (Artsakh). This issue remains open and is expected to be resolved in the OSCE Minsk Group format.

The escalation of the conflict brought about at least three consequences that are likely to affect EU-Armenia relations and the processes of further Europeanisation in Armenia. Firstly, the deployment of Russian peacekeeping forces to ensure the implementation of the truce has strengthened Russia’s presence in the region. This, arguably, has the potential to advance Russia’s security leverage on domestic politics and international cooperation priorities. Secondly, the role of the EU at this stage of conflict management appeared to be marginal. Lacking the institutional tools of influence, the EU demonstrated a rather weak position in the region in contrast with Russia and Turkey and its inability to effectively “promote, preserve and strengthen peace and stability at both regional and international level” (Art. 1 of CEPA). The EU, however, is eager to contribute to the peacebuilding process as a humanitarian actor. Arguably, if the EU chooses to prioritise recovery and stability over further reforms and lowers conditionality requirements due to geopolitical considerations, the transformative power of the EU will decrease. At the same time the demand for further democratisation and strengthening relations with the EU will also greatly depend on the logic of internal political developments. As a third factor to consider, one should mention unrest within Armenian society and a turbulent political situation provoked by the conditions of the truce. The Statement on ceasefire received diverse internal assessments ranging from full support to absolute rejection as an act of capitulation by Armenia. Political opponents, including political forces connected to the pre-revolutionary government, accused the Prime Minister of the betrayal of national interests and called for the government’s immediate resignation. As the situation is extremely dynamic, it is challenging to draw any final conclusions. It remains to be seen whether or not domestic political processes will evolve in the logical framework of further democratisation, what role external actors will play in the region and how this will affect the Europeanisation process.

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Anna Khvorostiankina is an Associate Professor of Law, a Founding Director of the Centre for Interdisciplinary Studies and an academic coordinator of Legal Approximation Laboratory (Jean Monnet Module, 2019–2022) at Brusov State University (Armenia), and a Member of the Management Board of the Association of European Studies for the Caucasus (AESC). Dr. Khvorostiankina has published on the issues of Europeanization of legal systems beyond the EU borders, recent developments in theory and practice of judicial argumentation in post-Soviet countries, constitutional cultures and the Rule of Law in societies in transition.