

# Stabilization and Association Agreement in the Jurisprudence of the Albanian Constitutional Court

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## **Abstract**

*This study will analyze the implementation of the EU-Albania Stabilization and Association Agreement (SAA) in the context of Albanian constitutional jurisprudence, with a particular focus on its status as a special source of law. The SAA holds a dual identity as both an international agreement ratified by the Parliament of the Republic of Albania and an instrument of EU law. This study aims to evaluate this dual status concerning the practical application of the SAA within the constitutional jurisprudence of the Constitutional Court of Albania. To achieve the objective of the study, two distinct research methods were employed. The desk-based research and the case study method. Desk-based research allowed for an in-depth exploration of existing literature, legal documents, and academic articles on the topic. The case study method facilitated the analysis of specific instances and rulings within Albanian constitutional jurisprudence that involve the implementation or interpretation of the SAA. In conclusion, a more precise understanding will be gained of how the SAA will be applied in the resolution of concrete disagreements under the Albanian constitutional jurisprudence.*

**Keywords:** SAA, Albanian constitutional jurisprudence, international agreement, EU law, special source of law.

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## **1. Introduction**

The European Union (EU hereinafter) operates under the rule of law, with a robust legal framework allowing the Court of Justice of the EU to review the legality of EU institutions' actions (as per Article 263 of the Treaty on the Functioning of the EU). Primary legislation consists of Treaties, general principles, and, since the Lisbon Treaty, the Charter of Fundamental Rights. The EU's international agreements are of secondary

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importance to the primary legislation. Secondary legislation must align with primary legislation to be valid. The doctrine of EU law primacy ensures consistency and unity.<sup>3</sup>

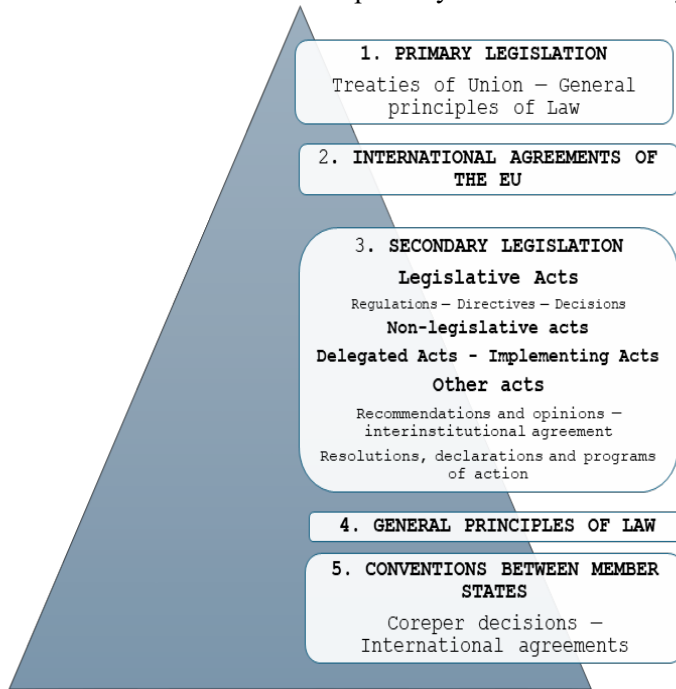


Figure 1. Sources of European Union Law

The Community (now the EU) power to enter in the external relations was first limited to common commercial policy and association agreement. The European Commission power to adopt association agreements was not limited in time under the European Economic Treaty. Article 310 of the European Community Treaty establishes the right of the European Commission to negotiate such agreements with third countries and organizations.<sup>4</sup>

According to Article 216 (1) of the Treaty on the Functioning of the European Union (TFEU), the EU has the power to enter into international agreements with third countries or international organizations within its sphere of competence. These agreements are legally binding on both the EU and its Member States and form an integral part of Union law (Article 216(2) TFEU). In addition, Article 217 TFEU allows the EU to conclude agreements establishing associations involving reciprocal rights and

<sup>3</sup> Sources and scope of European Union law | Fact Sheets on the European Union | European Parliament. (n.d.). <https://www.europarl.europa.eu/factsheets/en/sheet/6/sources-and-scope-of-european-union-law>.

<sup>4</sup> Gugu, A. (n.d.). *Main features of Stabilization and Association Agreements and the differences with Europe agreements*. Retrieved May 10, 2024, pg. 1-2. from [http://pdc.ceu.hu/archive/00002099/01/dec\\_2003\\_A\\_Gugu.pdf](http://pdc.ceu.hu/archive/00002099/01/dec_2003_A_Gugu.pdf). For a comparative view see Bobić, Ana, 'Identity Review', *The Jurisprudence of Constitutional Conflict in the European Union*, Oxford Studies in European Law (Oxford, 2022; online edn, Oxford Academic, 15 Dec. 2022), <https://doi.org/10.1093/oso/9780192847034.003.0006>, accessed 26 Oct. 2024.

obligations, joint actions, and special procedures.<sup>5</sup>

The Stabilization and Association Process (SAP) is the European Union's policy directed towards the Western Balkans, designed with the ultimate goal of eventual EU membership for these countries. Through the SAP, Western Balkan nations engage in a progressive partnership aimed at stabilizing the region and fostering the establishment of a free trade area. This process outlines shared political and economic objectives, with progress evaluated based on each country's merits<sup>6</sup>. Launched in June 1999, the SAP was further reinforced during the Thessaloniki Summit in June 2003, incorporating elements of the accession process. This initiative represents a comprehensive framework for engaging with the Western Balkans, offering a pathway towards EU integration.<sup>7</sup>

Association agreements play a crucial role in facilitating economic cooperation and providing substantial financial aid from the EU to non-member countries. These agreements are categorized into three main types:

1. Agreements Establishing Special Relations designed to address the historically close economic ties between certain non-European countries and specific EU member states. The primary objective is to stimulate economic and social development in these non-European nations while forging robust economic relations between them and the EU.

2. Preparation for EU Accession or Establishment of a Customs Union is also instrumental in preparing prospective member countries for eventual accession to the EU. During this preparatory phase, aspiring member states endeavor to align their economic conditions with those of the EU, setting the stage for potential future membership.<sup>8</sup>

3. European Economic Area (EEA) Agreements encompass countries within the European Free Trade Association (EFTA) to adopt a significant portion of EU legislation, providing a stable foundation for their potential accession to the EU. Within the EEA framework, the free movement of goods, persons, services, and capital is ensured, along with harmonized rules on competition, state aid, and closer cooperation on various policy areas like the environment, research and development, and education. In addition to association agreements, cooperation agreements are established to enhance economic collaboration further promoting economic development and integration between participating countries and the EU.

The process of Albania's integration into the European Union (EU) has been characterized by a complex series of changes across legal, political, and economic

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<sup>5</sup> Sources and scope of European Union law | Fact Sheets on the European Union | European Parliament. (n.d.). <https://www.europarl.europa.eu/factsheets/en/sheet/6/sources-and-scope-of-european-union-law>.

<sup>6</sup> For some connections see Wydra, Doris. 2018. "Between Normative Visions and Pragmatic Possibilities: The European Politics of State Recognition." *Geopolitics* 25 (2): 315–45. doi:10.1080/14650045.2018.1556643 and Domańska, M., Miąsik, D., & Szwarz, M. (2023). *National Courts and the Application of EU Law: Lessons from Poland* (1<sup>st</sup> ed.). Routledge. <https://doi.org/10.4324/9781003376019>.

<sup>7</sup> European Commission. (n.d.). Stabilization and Association Process. [https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/glossary/stabilisation-and-association-process\\_en](https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/glossary/stabilisation-and-association-process_en).

<sup>8</sup> EUR-Lex - 4314911 (n.d.). <https://eur-lex.europa.eu/EN/legal-content/summary/stabilisation-and-association-agreement-with-albania.html>.

spheres. Central to this integration is the role played by the SAAs, which form the foundation of Albania's ties with the EU. The above agreements serve as detailed blueprints outlining the parameters of engagement between Albania and the EU, encompassing a wide range of areas including trade, governance, human rights, and adherence to the rule of law.<sup>9</sup>

The SAA came into effect on 1 April 2009, following its ratification by the Parliament of Albania, the European Parliament, and the parliaments of the 25 EU member states at the time of the SAA's signature in July 2006. The SAA requires *inter alia* that Albania should use all reasonable efforts to bring its laws into compliance with the EU *acquis*.<sup>10</sup>

The objective of this study is to analyze the application and impact of the SAA between Albania and the EU within the Albanian legal system. In particular, the study aims to examine the legal framework of the SAA, including its direct applicability, its primacy over national law, and the role of national and EU courts in ensuring its enforcement. Through an examination of relevant case law and constitutional provisions, the study aims to provide insights into the complexities of integrating international agreements such as the SAA into domestic legal systems, and the challenges and opportunities they present.

## 2. Literature review and legal framework

In the academic discourse surrounding Albania's integration into the EU and its adherence to international norms, legal scholars have made valuable contributions. The Constitution of Albania reflects a clear tendency to embody international norms within the country's legal system. The relationship between international agreements ratified by the Republic of Albania and domestic norms is based on two fundamental principles: firstly, the principle of direct application of ratified international agreements, and secondly, the principle of supremacy of international agreements over domestic laws in case of conflict between them.

Zaganjori, Anastasi, and Methasani emphasize that the Constitutional Court has played a positive role in the Albanian context regarding the country's adherence to international law, particularly the European Convention on Human Rights.<sup>11</sup> This is notably reflected in several articles of the Constitution, such as Articles 5, 17/2, 116, and 121-123. Article 5 highlights Albania's commitment to implementing obligatory international law. Article 116 lists normative acts in force within the territory of the Republic of Albania, mentioning immediately after the Constitution and before laws of the Parliament, the ratified international agreements. Article 122.2 makes a significant

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<sup>9</sup> *Ibidem*.

<sup>10</sup> Xhuvani, E., & Mecalla, N., „Case Study on Integration Process of Albania Towards EU: Harmonisation of Domestic Legislation with That of EU”. *Access to Justice in Eastern Europe*, Issue 4/2023, <https://doi.org/10.33327/AJEE-18-6.4-n000404>, p. 253-264.

<sup>11</sup> Zaganjori, X., Aurela, A., Eralda, Methasani, & Çani. (2011). *Shteti i së Drejtës në Kushtetutën e Republikës së Shqipërisë*. p. 67, [https://www.kas.de/c/document\\_library/get\\_file?uuid=726ef2ee-7a25-2477-3d07-a97bfefb4a8a7&groupId=252038](https://www.kas.de/c/document_library/get_file?uuid=726ef2ee-7a25-2477-3d07-a97bfefb4a8a7&groupId=252038).

declaration that a ratified international agreement has precedence over conflicting domestic laws. According to this, the SAA is a legally binding international agreement that takes precedence over domestic laws.<sup>12</sup> In essence, the Constitutional Court's role in upholding Albania's obligations under international law, as enshrined in the Constitution, is crucial.

The SAA has raised questions about its legal classification within Albania's constitutional framework. While some consider it a traditional international agreement ratified by the Albanian Parliament, others view it as part of EU law due to its dual status.<sup>13</sup> This unique normative status grants the SAA hierarchical superiority over secondary EU legislation. In the context of European jurisprudence, opinions vary, but scholars argue that its supremacy clause in the Albanian Constitution provides a basis for Albanian courts to refer directly to the SAA and EU legislation.<sup>14</sup> Thus, the SAA represents not just a bilateral agreement but also a super-constitutional act, with Albania's obligations in the European integration process remaining unchanged. In case of conflict with the Constitution, amendments would be necessary. Despite its non-binding status, as Albania has not yet become a member state of the EU, the legislation of the EU and precedents set by the European Court of Justice of the EU are essential for interpreting decisions by Albanian courts.<sup>15</sup>

Kellerman posits that the SAA has a dual status, as both an act of community law and an international agreement ratified by the Parliament under traditional international agreement procedures. Under the constitutional principle of supremacy, any subsequent legislation enacted in the wake of the SAA's implementation must align with the terms of this agreement. Any provisions of existing legislation that conflict with the SAA must be amended or repealed to confer upon it a unique normative status. Although the texts of the agreements concluded by the Community (now the EU) are not required to be written in the Community's internal legislation, they become part of the EU *acquis*. In terms of hierarchy, the regulations outlined in these agreements are of higher precedence than secondary community legislation.<sup>16</sup>

Burchardt's article delves into the interplay between EU and domestic laws, emphasizing their combined normativity and multi-level structure. It scrutinizes principles like primacy, supremacy, and the hierarchy of legal norms, while also examining the role of concepts such as uniformity and constitutional identity in shaping their relationship. Through a comprehensive literature review, the analysis contributes valuable insights into this complex legal landscape.<sup>17</sup>

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<sup>12</sup> Article 122 of the Constitution of the Republic of Albania. (n.d.). [https://www.gjk.gov.al/web/constitution\\_of\\_albania\\_1722.pdf](https://www.gjk.gov.al/web/constitution_of_albania_1722.pdf).

<sup>13</sup> Kellerman, A. (2008). „Efektet ligjore të Marrëveshjeve të Asociimit me BE-në për shtetasit e vendeve joanëtare.” *Revista E drejta parlamentare dhe politikat ligjore*, No. 41.

<sup>14</sup> Albi, A. (2005). *EU enlargement and the constitutions of Central and Eastern Europe*. In <https://cadmus.eui.eu/handle/1814/3209>.

<sup>15</sup> Zaganjori, X., Aurela, A., Eralda, Methasani, & Çani. *op. cit.*, 2011.

<sup>16</sup> Kellerman, A. *op. cit.*, 2008, p. 51.

<sup>17</sup> Burchardt, D. (2019). „The relationship between the law of the European Union and the law of its Member States - a norm - based conceptual framework”. *European Constitutional Law Review*, 15(1), 73–103. doi:10.1017/S1574019618000512.

Furthermore, the article by Čková and Vnuková<sup>18</sup> provides a comprehensive review of the intricate relationship between EU law and national law, focusing on the case law of judicial bodies. It clearly outlines the key themes and concepts related to this dynamic interaction, drawing from a range of legal sources and scholarly works. One major aspect discussed in the article is the legal hierarchy resolution, which emphasizes the precedence of EU law over conflicting national laws as established by the Court of Justice of the EU.<sup>19</sup> This principle ensures uniform application of EU law across Member States, and it highlights the overarching authority of EU legal norms. Through legal reasoning and adherence to EU legal principles, conflicts with national laws can be effectively resolved, maintaining legal coherence within the EU.<sup>20</sup>

Mohay A., examines the complex relationship between EU law and international law, focusing on the status of EU international agreements. It highlights the dual nature of this relationship, where primary EU law regulates international agreements but leaves unresolved issues regarding their position in the legal hierarchy.<sup>21</sup> The Court of Justice of the EU plays a crucial role in defining the conditions for the direct effect of international agreements. However, conflicts between international agreements and secondary EU law reveal a dualist perception of the relationship between EU law and international law.<sup>22</sup> The review also emphasizes the EU's commitment to fulfilling international law obligations while maintaining the autonomy of the EU legal order.<sup>23</sup>

In conclusion, these academic contributions shed light on Albania's complex legal journey toward EU integration and its relation to international norms.<sup>24</sup> Through meticulous analysis, they offer valuable insights into the legal frameworks guiding Albania's evolution within the European context. Specifically, the role of the Constitutional Court in safeguarding Albania's compliance with international law. The contributions of academics demonstrate the Constitutional Court's role in upholding Albania's commitments as it moves closer to EU integration. Collectively, these studies contribute to a deeper understanding of Albania's legal landscape, emphasizing the importance of adherence to international norms and the crucial role played by

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<sup>18</sup> Nováčková, D. & Vnuková, J. (2022). „Relationship between EU law and national law in the context of case law of judicial bodies”. *Juridical Tribune*, 12(4), 538–551. <https://tribunajuridica.eu/arhiva/An12v4/7.%20Novackova,%20Vnukova.pdf>.

<sup>19</sup> Mathieu B. (2021). „Redefining the Relationship Between National Law and European Law”. *Central European Journal of Comparative Law*, 2(1), 139-145. <https://doi.org/10.47078/2021.1.139-145>.

<sup>20</sup> Nováčková, D. & Vnuková, J., *op. cit.*, (2022), p. 538–551. <https://ideas.repec.org/a/asr/journal/v12y2022i4p538-551.html>.

<sup>21</sup> Mohay, Á. M. (2017). „The status of international agreements concluded by the European Union in the EU legal order”. *Pravni Vjesnik*, 33(3-4), 151-164, <https://doi.org/10.25234/pv/5534>

<sup>22</sup> Popa Tache, C. E. (2022), *Comments on Current Regulatory Diversity under Public International Law*, in Banggui Jin & Cristina Elena Popa Tache (eds.), *Experientiam et Progressionem in Comparative and International Law*, Contributions to the 2<sup>nd</sup> Conference on Comparative and International Law, June 24, 2022, Bucharest - International Conference, (Bucharest: ADJURIS - International Academic Publisher), 93-105.

<sup>23</sup> *Ibidem*

<sup>24</sup> Shehaj, E. (2015). „Challenges of Albania towards the European Integration”. *Mediterranean Journal of Social Sciences*. Vol. 6 No. 4: Supplement 2, July 2015, 571- 577, DOI: 10.5901/mjss.2015.v6n4s2p571.

institutions like the Constitutional Court in ensuring legal coherence and alignment with EU standards.

### 3. Methodology

This study analyzes the implementation of the EU-Albania SAA in the context of Albanian constitutional jurisprudence. To achieve the study's objective, have been used: desk-based research and the case study method.

Desk research forms the basis of this study, providing a comprehensive understanding of the legal framework, academic discourse, and official documentation relevant to the SAA and the Albanian Constitution. This method systematically reviews academic articles, books, legal texts, and official reports related to the SAA, EU law, Albanian constitutional jurisprudence, and the intersection of international agreements with national legal systems.

Examination of the SAA itself and related legal instruments.

As a complement to the desk-based research, the case study method allows for an in-depth examination of specific cases in which the SAA has been invoked or has been implicated in Albanian constitutional jurisprudence. This involves the identification of key cases decided by the Constitutional Court of Albania. A thorough examination of selected cases to understand the legal arguments, reasoning, and outcomes regarding the implementation of the SAA. This analysis focuses on how the SAA's status as an international agreement and EU law influences judicial decisions. Assess the practical impact of judicial decisions on implementing the SAA in Albania, including on governance, policymaking, and legal certainty.

By combining desk-based research with the case study method, this study aims to provide a comprehensive analysis of the implementation of the SAA within Albanian constitutional jurisprudence and to contribute to a deeper understanding of the complex interplay between international agreements, EU law, and national legal systems.<sup>25</sup>

### 4. The SAA in Albania's constitutional jurisprudence

The jurisprudence of the Court of Justice of EU *prima facie* supports the primacy of EU law - in this case, the SAA - over national laws. In this instance, according to the Court of Justice of the EU, the judge of the national courts is obliged to apply the SAA instead of the national law that is inconsistent with that. Furthermore, the Albanian Constitutional Court has upheld this position in its jurisprudence. The following section will present a selection of the Court's most significant rulings.

The Constitutional Court, in its Decision no. 14, dated 21 March 2014, elucidated the significance of the SAA within the internal legal order of Albania. The SAA represents a framework agreement for relations between the Republic of Albania, on the one hand, and the EU and its member states, on the other. The SAA's objective

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<sup>25</sup> See some comparative points of view in Kovács, Kriszta. 2017. "The Rise of an Ethnocultural Constitutional Identity in the Jurisprudence of the East Central European Courts." *German Law Journal* 18(7): 1703–20. DOI: 10.1017/S2071832200022501.

is to provide support to Albania in strengthening democracy and the rule of law, thereby contributing to political, economic and social stability in Albania and the wider region. Furthermore, the SAA aims to align Albanian legislation with that of the EU and to support Albania in completing the transition towards an economy that is functional and market-oriented. In this way, the SAA is an agreement that has created a process of associating the parties with the objective of stabilizing and preparing the Republic of Albania for eventual EU membership.<sup>26</sup>

Since the entry into force of the SAA, the Constitutional Court of the Republic of Albania has referred to its implementation in the resolution of various issues. The aforementioned issues pertain to constitutional disagreements between private entities and the Albanian state or between state institutions themselves, in accordance with the constitutional provisions.

In accordance with Article 131 of the Constitution, letter (a), the Constitutional Court is responsible for determining the compatibility of legislation with the Constitution or international agreements, as stipulated in Article 122. Furthermore, in accordance with Article 131, letter (c), the Constitutional Court determines the compatibility of normative acts of central and local bodies with the Constitution and international agreements.<sup>27</sup>

The Decision of the College of the Constitutional Court, dated 18 January 2024, concerns the compatibility of the law with the Constitution and SAA, in accordance with Article 131, letter c). This issue was initiated by a subject of private law, in accordance with Article 134, paragraph 1, letter (i) of the Constitution.

The applicant, a private entity (the company "Ems Albanian Port Operator" sh.p.k.), has submitted claims before the Constitutional Court for violation of the SAA. The applicant's argument is based on the contention that certain articles of Law no. 79/2022 (respectively its articles 1, 3 and 4) authorize the disposal of public or state assets and the awarding of public contracts excluding competitive legal procedures. The applicant's arguments are based, among other things, on the fact that the law in question conflicts with the MSA. In particular, the applicant draws attention to the violation of the principles of competition, transparency, non-discrimination, proportionality, efficiency, equal treatment, reciprocity and legal security assumed by the Albanian state.<sup>28</sup>

Furthermore, the Constitutional Court was also requested to determine the compatibility of the agreement ratified by the Albanian state with Law no. 79/2022 with MSA. The applicant's claim in this matter was based on the principles of classical international law. He argued that the SAA should be considered an international agreement, and that, in accordance with the 1969 Vienna Convention on the Law of Treaties, the Court should not apply the agreement concluded and ratified after the

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<sup>26</sup> Decision of the Constitutional Court, No. 14, date 21.03.2014. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).

<sup>27</sup> Article 134 of the Constitution of the Republic of Albania (n.d.). [https://www.gjk.gov.al/web/constitution\\_of\\_albania\\_1722.pdf](https://www.gjk.gov.al/web/constitution_of_albania_1722.pdf).

<sup>28</sup> Decision no. 8, date 18.01.2024, paragraph 10.2, p. 3. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).



SAA's entry into force to the extent that it conflicts with the latter.<sup>29</sup>

However, with regard to these two significant matters, the Constitutional Court was unable to take a stance on its own, as the Court Panel that had previously considered the case decided not to attend the court session. However, the content of this decision indicates that the arguments put forth by the College of the Constitutional Court in its decision favor the evaluation of the SAA as a source of law that finds direct application in the Albanian legal system and whose subjects of private law can be directly referred to.

In its Decision no. 29, dated 2 July 2021, the Constitutional Court the applicant was a state institution, namely the President of the Republic, and was one of the legitimate subjects entitled to refer to the Court in accordance with Article 134 of the Constitution. In his request, the President requests the repeal of Law No. 37/2018 and Decision No. 377, dated 08/05/2020 of the Council of Ministers, on the grounds that they are incompatible with the Constitution and international agreements. In his research, the subject is referred to by the term "international agreement." The request sets out the legal basis for the incompatibility of these acts with international agreements, including the SAA. In his submissions to the Constitutional Court, the SAA is referenced as a classic international agreement duly approved by Parliament.

In the assessment of the Constitutional Court, the first thing that stands out is the re-introduction of the nature of the contested act before it. In accordance with Article 131, point 1, letters "a" and "c", of the Constitution, the court has established that only normative acts can be the object of abstract control of the constitutionality of the norm, while individual acts are subject to the control of the ordinary judicial system. The normative character of the contested act is the determining factor that differentiates the constitutional jurisdiction from that of the ordinary courts. Consequently, during the exercise of the abstract control of the norm, the Court considers the nature of the contested act in advance, which is directly related to its jurisdiction for the substantive examination of the act.<sup>30</sup>

With regard to the SAA, the issue in question falls within the purview of the Constitutional Court to examine the compatibility of normative acts with the SAA. Conversely, the jurisdiction of ordinary courts extends to acts of an individual nature.

In Decision No. 21 dated 18 April 2023, a group of members of the Parliament demanded the repeal of Law No. 39/2022 "On the processing, transportation and trading of oil, gas and their by-products", as amended, on the grounds that it was incompatible with the Constitution of the Republic of Albania and the aforementioned law. 42/2022 "On the approval of normative act no. 8, dated 25.03.2022 "For some additions to the law no. 8450, dated 24.02.1999 "On the processing, transportation and trading of oil, gas and their by-products", amended. The applicant asserts that only for normative act no. 5/2022, approved by law no. 39/2022, does the aforementioned act contravene Article 101 of the Constitution, Article 68, point 2, of the Rules of the Assembly, freedom of economic activity, equality before the law, as well as the provisions of the

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<sup>29</sup> Ibidem, p. 3-4.

<sup>30</sup> Decision no. 29, 02.07.2021, paragraph 29, pg. 20. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).

SAA and the TFEU.

The claim of violation of the SAA is related to its articles that protect competition. The petitioners in this case allege that representatives of the five largest hydrocarbon companies in the country, in conjunction with representatives of the government, determine the wholesale and retail price of gas, oil and their by-products. This practice contravenes Article 71 of the SAA and Article 101 of the Treaty on the Functioning of the European Union (TFEU).<sup>31</sup>

It can be argued that there is a justification for the requesting party in terms of the incompatibility of the national legal basis with the SAA and a primary source of EU law. Such a claim is based on the recognition and acceptance of the supremacy of EU law over national laws, a principle that is directly related to the effectiveness of EU law.

With regard to the applicant's assertions regarding a violation of the SAA, the Constitutional Court has determined that this matter is of a constitutional nature and has therefore included it within the scope of its constitutional jurisdiction. With regard to the applicant's further claims regarding the violation of Articles 101, 17 and 18 of the Constitution, in relation to the necessity, urgency and taking of temporary measures in issuing the disputed acts, the freedom of economic activity, the principle of equality before the law and non-discrimination, as well as the competition rules guaranteed by the SAA, which are of a constitutional nature, they fall within the constitutional jurisdiction and will therefore be examined in the following section. The Court's assertion thus acknowledges the constitutional nature of the claims for violation of the SAA and the compatibility of the national law with the SAA itself. Consequently, even in this decision, the Constitutional Court acknowledges the primacy and direct applicability of the SAA within the internal framework of Albanian law.<sup>32</sup>

For the principle of supremacy, the Court refers to Article 116 of the Constitution and equates the SAA with an international agreement ratified by the Parliament. She emphasized that respecting the hierarchy of normative acts is an obligation derived from the principle of the rule of law and coherence in the legal system. The pyramid of normative acts, sanctioned in Article 116 of the Constitution, defines the relationships between legal norms, which are based on the ratio of their superposition/subordination. Based on Articles 5, 116 and 122 of the Constitution, the Republic of Albania applies the international law binding on it, ranking the ratified international agreements, which are part of the internal legal system, in the hierarchy of normative acts that have force before laws.<sup>33</sup>

## 5. Conclusions

The SAA between Albania and the EU within the Albanian legal system is of

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<sup>31</sup> Decision no. 21, 18.04.2023, paragraph 6.5, pg. 5. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).

<sup>32</sup> Decision No. 21 dated 18 April 2023, paragraph 26. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).

<sup>33</sup> Decision No. 21 dated 18 April 2023, paragraph 91. [https://www.gjk.gov.al/web/Vendime\\_perfundimtare\\_100\\_1.php](https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php).

particular importance. The Court of Justice of the EU has unequivocally upheld the supremacy of EU law over national legislation, obliging national judges to prioritize the application of the SAA over conflicting domestic laws. This underscores the integral role of the SAA in shaping Albania's legal framework and its alignment with EU standards. In this context, the Constitutional Court of Albania assumes a crucial role in ensuring the harmonization of domestic laws with the Constitution and international agreements, including the SAA.

Its authority to adjudicate on the conformity of laws with the Constitution and international agreements underscores its significance as a guardian of Albania's legal order. This role is further reinforced by constitutional provisions, such as Articles 5, 116, and 122, which affirm Albania's commitment to implementing international law and prioritizing the supremacy of international agreements over conflicting domestic laws. Furthermore, the Court's interpretation of international law serves to inform its determination of the direct applicability of international agreements. It is of significant importance to note that any agreements that have been concluded and ratified after the entry into force of the SAA may be disregarded if they conflict with its provisions. This reaffirms the SAA's hierarchical superiority within Albania's legal hierarchy to domestic laws and even international agreements that do not comply with the SAA if they have been ratified by Albani after the entry into force of the SAA.

Through a review of academic literature, researchers have given a range of insights into Albania's legal evolution within the context of EU legal systems. The authors demonstrate that EU law is important, particularly in the context of the SAA, which holds a superior position to secondary EU legislation. The dual status of the SAA, as both a traditional international agreement and part of EU law, serves to illustrate its pivotal role in shaping Albania's legal landscape and facilitating its integration into the EU.

The decisions of the Constitutional Court provide a tangible manifestation of Albania's commitment to legal coherence and conformity of its legislation with the *acquis* of the EU, to which the SAA is an important part.

In conclusion, the intricate interplay between EU law, the SAA, and Albania's domestic legal framework highlights the Constitutional Court's role in ensuring legal harmony and upholding Albania's commitments under international agreements.

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