

Georgia's European perspective:

A Litmus Test for EU Conditionality?

Abstract:

In June 2022, the European Council announced a historic decision: to grant candidate status to Ukraine and Moldova. Meanwhile, Georgia, once a 'poster child' of the Eastern Partnership initiative, was only recognised as having a European perspective, and was provided with a list of conditionality-based requirements to become a candidate in future. Considering the recent democratic backsliding in Georgia and its government's strained relations with Brussels, the main question is whether the incentive of candidate status will be significant enough to ensure the country proceeds with the reform agenda. This policy paper contextualises Georgia's European Union (EU) membership application and the EU's decision, and discusses the main challenges facing Georgia in its path to join the EU. The paper finishes with lessons and policy recommendations for the EU on how to improve the effectiveness of the conditionality approach in Georgia and beyond.



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Georgia's 'bumpy' road towards the EU

Geopolitics was and remains important with regard to Georgia's European Union (EU) membership application. Membership of the EU (and of NATO) is a way for Georgia to ensure its security from Russia. But it also stems from discourse on Georgia's European identity that has shaped the country's foreign policy since the early 2000s (Kakachia and Minesashvili, 2015). Georgia established its first ties with European institutions in the mid-1990s. However, the relationship intensified after the 2003 'Rose Revolution', when European and Euro-Atlantic integration became primary foreign policy goals for the country. Over the last two decades, EU–Georgia relations evolved and significantly advanced through the European Neighbourhood Policy (ENP) framework and its sub-regional dimension, the Eastern Partnership initiative (EaP). The Georgian population's support for European integration has been unwavering for over a decade and remains among the highest in the region (National Democratic Institute, 2022).¹ Initially, Georgia planned to apply for EU membership in 2024 (Makszimov, 2021). However, Russia's unjustified full-scale invasion of Ukraine has altered the geopolitical context, giving impetus to Ukraine, Moldova, and Georgia to pursue EU membership earlier than planned. Following Ukraine's EU application, and popular demand locally, Georgia applied on 3 March 2022 (Brzozowski, 2022). For many Georgians, the EU membership application is a natural continuation of decades-long foreign policy aspirations.

Even though, in previous years, Georgia, Ukraine, and Moldova expressed their EU membership aspirations on numerous occasions, the Associated Trio's² applications were still an unexpected challenge for the EU, which, until recently, remained highly reluctant to consider Eastern enlargement. Observers warned that refusal from the EU's side would damage its image and result in 'negative spill-over effects', whereas a positive decision would help halt Russia's 'aggressive and destabilising regional policy' and strengthen the EU's position in the region (Kakachia and Lebanidze, 2022). In an unprecedented, fast-tracked application review process, on 17 June the European Commission (EC) recommended granting candidate status to Ukraine and Moldova. However, Georgia was instead recognised as having a European perspective and was presented 12 priorities that must be implemented first (EC, 2022a).³ Even though Ukraine and Moldova have also received a list of recommendations from the EC, the different status applied to Georgia could be explained by recent developments that seem to have undermined the Georgian authorities' credibility (Emerson, Blockmans, and Akhvediani, 2022). Failure to implement Charles Michel's 2021 agreement, losing the second tranche of macro-financial assistance from the EU, or lack of political

¹ Recent polls show that support for EU membership is at around 82%.

² The Associated Trio refers to Georgia, Moldova, and Ukraine. The three countries signed a joint memorandum establishing a format for deeper cooperation among themselves and the EU in 2021.

³ Among the listed issues is the improvement of the judicial system, ensuring media freedom, strengthening anti-corruption measures, and de-oligachisation, which was also one of the recommendations in the EP's June 2022 resolution on Georgia.

will to implement substantial reform in the judicial field are among possible issues. Unsurprisingly, the European Council's decision on 23 June, which mirrored the EC's opinion, was met by many in Georgia with disappointment and frustration. Following the EC's announcement, on 20 June around 120,000 people took to the streets, to express their wish to join the EU (Radio Free Europe, 2022b). More demonstrations were held following the European Council's decision. The rallies, organised by the 'Shame Movement', considered the government responsible for the outcome and demanded the Prime Minister's resignation, asking that a new government be formed (Heil, 2022). However, after a rally on 3 July, which still did not achieve the demonstrators' primary goals, street protests died down (Kinch, 2022b), leaving Georgia's European aspirations uncertain.

This policy paper contextualises Georgia's EU membership application and the EU's decision to only recognise the European perspective for the country, and discusses the main changes, opportunities, and challenges that such a perspective brings to EU–Georgia relations. For Georgia, the main question is whether the prospect of being granted EU candidate status in the near future is a strong enough incentive for the government to deliver change and move forward on the reform agenda. It may also be a litmus test for the EU and its use of conditionality. With EU enlargement on the horizon, with ever more countries wishing to join, the EU's policies and practices will need substantial reconsideration. Georgia's case may be an important lesson in that direction.

European perspective: what does it change?

The EU rose to the occasion by granting candidate status to Ukraine and Moldova, and the European perspective to Georgia

From the geopolitical perspective, one can consider that the EU rose to the occasion by granting candidate status to Ukraine and Moldova, and the European perspective to Georgia, in an unprecedentedly short timeline. Considering that none of these countries were ever considered to have had a European perspective, despite their long-expressed wish to join the EU, such a move is indeed a positive development and reshapes the future framework for their relations with the EU. For decades, the EU's so-called Eastern neighbourhood has remained a 'security-political grey zone' between Russia and the West. Nevertheless, the Associated Trio's eventual accession to the EU may 'give full structure to the East European geopolitical space' (Umland, 2022).

Geopolitical reasons aside, candidate status – or potential candidate status for that matter – is perceived to be an important motivating factor in pushing

forward the EU's required reform agenda. Indeed, studies show that democratic conditionality, a key element of the enlargement policy, is one of the most important mechanisms through which the EU seeks to promote democratisation in candidate countries (Dimitrova and Pridham, 2004). As Schimmelfennig and Sedelmeier (2020: 817) put it, 'membership in the EU, which entails larger financial assistance, unconditional market access, and voting power in the EU, is a bigger "carrot" than association'. Due to the absence of a clear membership perspective, the ENP and its sub-regional dimension – the EaP – have been lacking such an instrument. The EaP provides significant benefits for interested partners. However, after signing the Association Agreement and benefiting from the visa-free regime, the Associated Trio has been searching for new goals in terms of European integration. Refusing in the past to acknowledge the European perspective of the Associated Trio, the EU has struggled to develop a new and substantial agenda for ambitious partners. Their inclusion in the enlargement framework is a significant move by which the EU and the countries in question can foster democratic reform. This also entails a potentially more important role for non-state actors. Georgia's opposition parties and civil society representatives called on the EU to grant the country candidate status (Civil Georgia, 2022f, 2022a). The rationale behind such calls (apart from geopolitical reasoning) was that moving Georgia from the neighbourhood to the enlargement framework would give more decisive impetus for social mobilisation, further empower domestic actors to create internal pressure for reforms and strengthen external pressure on the government.

However, with opportunities come risks. The EU is known for its lack of appetite for enlargement – so-called enlargement fatigue – which largely depends on its capacity to absorb new states but also on (potential) candidate countries' progress in terms of reforms (O'Brennan, 2014). The differentiation principle that the EU applied to the Associated Trio's applications may have an unintended negative effect on Georgia's European future if its government fails to deliver on the required reforms in the near future. The Western Balkan countries' protracted and complicated accession process does not give much hope in this regard. After a long and intense talk, Albania and North Macedonia opened accession negotiations with the EU in July (Euronews, 2022), which could be considered a positive sign for countries in the enlargement framework. However, such developments should be taken with a grain of salt. First, they again demonstrate that the enlargement process can be protracted, and thus seizing the window of opportunity – when the EU shows its readiness to enlarge – is crucial, especially in the current fast-changing geopolitical context. Second, they show that the EU still follows its traditional approach of treating countries as a multi-country package when dealing with enlargement. There is a risk that if the Georgian government does not show its strong commitment to implementing the Commission's 12 priorities, the country may become dissociated from Moldova and Ukraine, and these latter two will continue to move forward without Georgia. Such developments and lack of clarity risk making the Georgian public frustrated with the EU, stalling the reform process and causing the potential disempowerment of pro-democratic actors in the country.

Challenges ahead: implementation of the EU's 12 priorities for Georgia

The European perspective may have opened the door to a new, more ambitious chapter in EU–Georgia relations. However, it also entails a significant test for both sides. The EU's 12 recommendations are at the centre of political discussions in Georgia. The priorities that EC unveiled earlier in summer 2022 include (among other issues) addressing political polarisation, implementing effective judicial reform, 'de-oligarchisation', ensuring a free media environment, strengthening the protection of human rights, gender equality, and the appointment of an independent Ombudsperson. Challenges on the road to fulfilling these priorities are multifaceted. To begin with, the ruling elite's political will and the state's capacity to implement substantial agenda for democratic reforms are crucial for moving forward. Some of the issues put forward by the Commission have been on the country's agenda for no less than ten years, while others have emerged more recently. Despite having 'positive track record' of reforms in the framework of the EU–Georgia Association Agreement (EC, 2022c), in recent years Georgia has seen democratic backsliding. According to Freedom House's 'Nations in Transit' 2022 report, Georgia's democracy score has been declining since 2018 (Freedom House, 2022).

A lot of attention is currently directed towards Georgia's judiciary, often seen as the 'invalid' of the country's fragile democracy.

Taking efficient and systematic steps to address some of the most problematic areas for Georgia's democracy will be crucial and challenging. Unsurprisingly, a lot of attention is currently directed towards Georgia's judiciary, often seen as the 'invalid' of the country's fragile democracy (Jones, 2015). Since 2013, the Georgian government has initiated four waves of reform (for a detailed analysis see Verdzeuli, 2021). If the initial stage was considered a 'promising start' (Tsereteli, 2022), the following waves showed a different trend. Critics argue that, overall, the 'institutional changes served as a convenient facade' (Tsereteli, 2022:191), while fundamental problems (such as independence of the judiciary) remained unsolved

(Imnadze, 2021). Observers point out that the EU's 'technical attitude towards judicial reform' also contributed to the EU 'neglecting the political factors hindering' it (Erkvania and Lebanidze, 2021: 6). This is in line with the criticism that 'under the current association framework the EU's capacity to act as an anchor for democratic change is limited' (Delcour, 2022). However, the EU has also been criticised for taking a technical approach within the enlargement framework and neglecting the substance of reforms (Kmezić, 2015). If the EU wants to see its efforts bear fruit in the complex context of the Associated Trio's accession process, such an approach should be abandoned in favour of more context-

specific and meaningful engagement with national stakeholders, including with the representatives of civil society.

Now that Georgia has been moved into the enlargement basket, the EU's conditionality becomes more relevant than ever. However, the Western Balkan's accession process has triggered many discussions about the limits of the EU's conditionality. Schimmelfennig and Sedelmeier (2020: 187) discuss conditions under which conditionality is 'more or less likely to be effective': they include 'the size and distance of the EU's rewards, the determinacy of the conditions it sets for obtaining the reward, the credibility of the conditionality, and the size of the adoption costs for the target government'. Before having real EU membership prospects, Georgia showed signs of resistance to some of the EU's rewards despite being considered a 'poster child' of the EaP. The political crisis in 2020–2021 in Georgia saw high-level involvement from the EU in the form of European Council President Charles Michel's personal efforts to broker a deal between the ruling party and the opposition, who refused to recognise the results of the 2020 parliamentary elections and take up their mandates (Panchulidze and Youngs, 2021). The deal that was initially reached after several rounds of negotiations, known as the 'Charles Michel agreement', which aimed to distribute power more evenly in Parliament as well as commit to much-needed reforms, saw an early end in July 2021 when the ruling party announced that it was withdrawing from the agreement. Later, in August 2021, Georgia announced its decision not to request the second tranche of the EU's macro-financial assistance, which is linked to conditions (Kinch, 2022a). The EU responded that, while they respected this decision, they had also noted the failure on the Georgian side to address EU conditions, especially regarding 'increase the independence, accountability and quality of the judicial system' (European Parliamentary Research Service, 2022: 40).

Furthermore, in late May 2022, just a few days after Georgia submitted the second part of the EU membership questionnaire, the country's court sentenced the director of the opposition TV channel Mtavari TV to three and a half years in prison. The act was widely condemned both within Georgia and internationally.⁴ Concerns were raised regarding media freedom in light of the politicised judiciary system in Georgia. The reality of the 'reward' of EU membership did not compel Georgia's political leadership to mobilise and build a strong case in favour of being granted candidate status in the months leading up to the EU's decision. Consequently, the local political context, alongside other factors, such as cost-benefit calculation and the credibility and determinacy of the EU's conditionality, deserve further attention.

⁴ See, for instance, the results of Georgia's Public Defender's (Ombudsman) examination of judgement in Nika Gvaramia case (available at: <https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelis-shemotsmebis-shedegebi-nika-gvaramias-ganachentan-dakavshirebit>) ; EP resolution of 9 June 2022 on violations of media freedom and the safety of journalists in Georgia (available at: https://www.europarl.europa.eu/doceo/document/TA-9-2022-0239_EN.html) ; Amnesty International's statement on Georgia: 'Sentencing of pro-opposition media owner Nika Gvaramia a political motivated silencing of dissenting voice' (available at: <https://www.amnesty.org/en/latest/news/2022/05/georgia-sentencing-of-pro-opposition-media-owner-nika-gvaramia-a-political-motivated-silencing-of-s-dissenting-voice/>).

Conditionality under the shadow of '(de)-oligarchisation'

The Commission has recommended 'de-oligarchisation' be applied in all three applicant countries. In Georgia, the dominant position of Bidzina Ivanishvili (the billionaire founder of the ruling party Georgian Dream) and his influence on the ruling party and political institutions undermine the country's efforts towards democratisation. Some observers characterise Georgia as a 'captured state' due to the existence of a clientelistic network and 'a distortion of accountability mechanisms' (Aprasidze and Siroky, 2020: 583). Others have warned that 'current Georgian leadership could lead the country in this [state capture] direction', which puts Georgia 'in a vulnerable position vis-à-vis both its commitment to democracy and its foreign policy orientation' (Konończuk, Cenuşa, and Kakachia, 2017).

The Commission's recommendation came after the European Parliament's (EP) critical resolution on Georgia, in which, among other issues, the EP called the Council to consider imposing personal sanctions on Bidzina Ivanishvili 'for his role in the deterioration of the political process in Georgia' (EP, 2022). It expressed concerns that 'Ivanishvili's exposed personal and business links to the Kremlin' determines 'the position of the current Government of Georgia towards sanctions on Russia' (EP, 2022). It was the first time that the EP acknowledged Ivanishvili's role in Georgian politics and put the issue of imposing personal sanctions on a political agenda. In response, the Georgian Dream Party Chief, MP Irakli Kobakhidze, 'downplayed' the importance of the resolution (Civil Georgia, 2022d), while the Prime Minister of Georgia, Irakli Garibashvili, called the resolution and its content 'insulting' (Civil Georgia, 2022g).

The EU's recommendation on 'de-oligarchisation' and some other priorities unveiled by the Commission has been also criticised for lacking clarity and leaving room for misinterpretation (Chkhikvadze, 2022). The condition of determinacy stresses the importance of clarity and detailed specifications from the EU's side for conditionality to be effective (Schimmelfennig and Sedelmeier, 2020: 817). As of late 2022, in the most recent development, the Parliament of Georgia has passed a second reading of a draft law (which is largely based on the Ukrainian precedent) on 'de-oligarchization'. The draft law has been criticised by local civil society organisations, which have emphasised the importance of taking into account 'contextual differences' between Georgia and Ukraine, while the EU delegation to Georgia has urged Georgian authorities to request the opinion of the Venice Commission before its adoption (Civil Georgia, 2022b). In light of such developments, clarity on requirements and setting specific benchmarks are critical measures to avoid unintended negative consequences of EU conditionality. Richter and Wunsch (2020: 56) emphasise the importance of domestic (mis)usages of EU conditionality and show how, in some instances, EU conditionality 'enables informal networks to consolidate their power, creating a dynamic that durably undermines any progress towards sustainable

democratisation'. The EU should thus remain vigilant. It should further clarify its requirements and closely follow the developments regarding 'de-oligarchisation law', in order to avoid a 'facade' compliance with the EU's recommendations, which may have a negative effect in the long term.

The shift towards anti-Western rhetoric?

Vested interests that undermine the political will necessary for reforms seem to coincide with the recent shift in the ruling party's rhetoric regarding its international partners: the EU and the United States. It is unclear how polarisation can be reduced in a context where the representatives of the ruling party are increasingly using an anti-Western narrative in their official discourses.⁵ According to one analysis, Kobakhidze, in his statements to the press (from 24 February to 27 July), was most critical of the West and least critical of Russia (Kinch, 2022c). With the start of the war in Ukraine, many representatives of the Georgian Dream have pointed out that some 'forces' would like to see Georgia go to war. Kobakhidze claimed that, like Ukraine, Georgia would have received EU candidate status if the country had gone to war – thus indicating the connection between the two (Civil Georgia, 2022c). The now-former EU Ambassador to Georgia, Carl Hartzell, has also come under criticism from the Georgian Dream leadership and was accused of having had a 'negative' impact on EU–Georgia relations; there have been claims that he 'could have worked better' to help Georgia gain EU candidate status (Radio Free Europe, 2022a). As Nodia (2022) warns, such instances constitute 'a fundamental change' in the Georgian government's narrative.

Suggesting that Georgia's EU application was surrounded by war conspiracy, several MPs formally left the Georgian Dream Party with the aim of exposing 'the truth behind curtains' (Kinch, 2022d). Initially, their rhetoric revolved around EU candidate status, playing down its importance for Georgia (Kakachia and Samkharadze, 2022). Since then, the group has published several open letters, some openly critical of Georgia's Western partners, including the United States and its Ambassador to Georgia. The group recently announced they were forming a public movement, 'People Power', claiming that 'the threat' of Georgia's involvement in the war is 'still relevant' and that 'full mobilisation is needed to protect the country' (Interpressnews, 2022). Even though the group claims they are no longer members of the Georgian Dream, they are still widely perceived to remain associated with the party. Local observers characterise the group's rhetoric as anti-Western and anti-liberal (Kakachia and Samkharadze, 2022). Such rhetoric from high-profile Georgian authorities or MPs has prompted criticism from many in Georgia, including President Salome Zourabichvili, who accused the government of playing a 'two-faced game' in their pursuit of European integration (Civil Georgia, 2022e). As Jones (2022) points out, 'The language employed by Georgia's politicians today [...] reflects the erosion of the country's democratic institutions.' It may well reflect the erosion of the Georgian authorities' European aspirations. Anti-Western messages from ruling party

⁵ One of the recommendations of the EC is reduced political polarization in Georgia.

representatives or associates pose a significant challenge and undermine the progress of the constructive and inclusive process needed to implement the EC's recommendations.

Lessons and policy recommendations for the EU

In its recent report, the EC underlined that this is a 'historic moment in EU–Georgia relations', adding that the future of these relations is 'now in the hands of Georgia' (EC, 2022b). While political will from the Georgian authorities is crucial for the reforms to move forward, much depends on the EU. Some observers criticise the formulation of the 12 priorities of the EC and argue that the 'general nature of their phrasing leaves room for interpretation' (Chkhikvadze, 2022). Therefore, more clarity is needed to avoid the priorities becoming 'a moving target' (Chkhikvadze, 2022). In a very recent development, the EP has also recommended providing Georgia with a 'clear roadmap' of requirements necessary to fulfil before receiving candidate status (EP, 2022). Such concern is especially relevant considering some of the EU recommendations have already become a matter of disagreement and political turmoil in Georgia. The EU will need to work to strengthen the determinacy of its recommendations for the country. Furthermore, its credibility is another essential factor influencing the effectiveness of its conditionality process: setting realistic timeframes and ensuring the coherence of EU messages are crucial in this regard.

The developments in recent years show that, in the Georgian case, the EU's conditionality faced strong challenges. Even though the weight of the external incentive has increased, the ruling party's recent actions do not provide much room for optimism. In the context of informal influence, lack of political will, and fragile state institutions, it is debatable how effective the EU conditionality process can be in advancing democratic reforms and moving Georgia from potential to full candidate country status. For the conditionality process to be effective in the Georgian case and also to prevent its misuse by domestic elites, the EU needs to adopt a more context-specific approach, engage with the pro-democracy actors more proactively, and increase support to avoid stalling Georgia's European integration process.

Recommendations for the EU:

- To specify requirements for each of the EC's recommendations, as inspired by Georgia's application to join the EU. Given the turbulent character of the Georgian political landscape, the clarity and precision of the recommendations will play important roles. Further explanation and clarification on each recommendation will also be helpful for non-state stakeholders willing to engage in the process of monitoring and advocating for their effective implementation.
- To move from the technical approach visible in the reform process in the last decade in Georgia to more substantial efforts in pushing forward the reform agenda. The EU's approach within the neighbourhood and the enlargement frameworks has been criticised for being too technical. As we have seen, such an approach sometimes allows reluctant political elites to opt for 'facade reforms'. To avoid this, the EU needs to rethink and reshape its engagement in democratic reforms in countries such as Georgia and beyond. Closely following the implementation of the EC's 12 requirements and stepping up the EU's effort to provide a substantial support for pro-democracy actors in the country will be a crucial step in this direction.
- To follow developments in the Georgian media environment closely and ensure support for independent media outlets.
- To increase financial and political support to civil society actors in Georgia. Supporting bottom-up efforts alongside top-down external pressure for democratisation is crucial to fostering democratic reforms.
- To engage with a wider pool of civil society actors. European integration represents a topic in which broader participation is possible. The EU could encourage such participation by engaging, communicating, and exchanging information with civil society actors beyond the capital or institutionalised organisations.
- To strengthen communication efforts with Georgian society. Strategic communication has become a priority in the context of disinformation campaigns amid Russia's full-scale war against Ukraine and anti-Western messages from some Georgian authorities and political elites. ■

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