



The „New Wave“ of Eastern Enlargement: How Does the EU conditionality Work for Georgia?

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The Eastern Partnership countries and the EU have been enhancing and deepening cooperation in various fields for more than three decades. This partnership framework aims to bring these countries closer to European standards and values through political association and economic integration. The EU had not envisaged enlargement as an objective of the Eastern Partnership, although the “Associated Trio” (Moldova, Ukraine, Georgia) have expressed aspirations towards membership even within the Neighborhood Policy. The EU had considered the enlargement under the Eastern Partnership framework as a long-term perspective or an unresolved issue. The ongoing developments in Ukraine, the unprecedented military aggression of Russia and its intervention, which undermined the foundation of the structure of international security, made Eastern Enlargement possible and also promoted Europeanisation to the next stage.

The European Commission’s recommendations for Georgia’s prospective membership deepened the existing crisis instead of resulting in political consolidation. The expected surge in Eastern Enlargement faced Georgia with challenges. These included its backsliding from the “Associated Trio” countries, ambiguous explanations regarding the 12-point conditions at local political level, the polarization of political positions, the inefficient communication of the ruling party with the EU and a shift of rhetoric towards the West. There have also been intensified political discussions comprising numerous questions and

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ambiguities regarding conditionality as the instrument of Europeanisation, as well as the implications of the conditions addressed to Georgia.

The aim of this political memorandum is: (1) to analyze the essence and importance of the conditionality within the expected new wave of EU enlargement; (2) to compare conditions addressed to the Associated countries; (3) to detect the separate risks and possibilities of Georgian Europeanisation in the event that it does not comply with the conditions.

The Eastern Enlargement and Conditionality

Candidacy for EU membership for Eastern partnership countries should have come as a result of reforms and fundamental changes at the local level. The Associated Trio's prospect of becoming members of the EU depended on efficient implementation of the Association Agreement, including the Deep and Comprehensive Free Trade Area Agreement (Jansen and Madatali 2022). The Association Agreement was considered as the main leverage on Europeanisation within this format of cooperation which, beyond the distinctly technical regulations, promoted strengthening European values in Ukraine, Moldova, and Georgia (Association Agreement Georgia 2014; Elsuwege and Van der Loo, 2022).

The EU enlargement policy is a strong tool of foreign policy (Grabbe 2006). Its purpose is to consolidate European countries around common values to achieve prosperity through joint efforts (TEU article 21; IPA III 2021:5; Grabbe 2006). If we examine the political history of the EU enlargement, it becomes apparent that the efforts made by the institutions and member states in this direction are based mostly on common identity and values with the candidate countries, which is covered by the Article 2 of the Treaty on the European Union (TEU, article 2; European Parliament 2021).

During the enlargement process, EU institutions unilaterally draft conditions for the applicant countries. As has been seen, the decision regarding their scope is based on domestic conditions and political, legal and economic challenges, and therefore it differentiates according to the country (Emerson M. and Aydin S. et.al. 2006). At the initial stage the enlargement process is distinctly unilateral, although during implementation EU institutions are cooperating closely with the candidate country through political, technical and financial assistance. After opening the negotiations on enlargement, the role of the EU and Member countries in achieving the common objective is consequential.

The existence of an enlargement policy emphasizes the role of the EU as an increasingly important global actor on the international scene, however the Union is not always ready to conduct negotiations on enlargement. The rationales might often be explained by the internal political issues of the EU – its priorities and challenges. The enlargement policy implies the compatibility with EU interests and common identity and disputes. (Piedrafita and Torreblanca 2005). Therefore, for the Associated Trio countries this opportunity for EU membership is historic.

The conditionality used by the EU towards the Associated Trio countries is based on an assessment of compliance with EU values and standards; it is also the leverage for deeper integration. Therefore, in order to meet the conditions, the joint effort of EU institutions and partner countries is especially significant. The efficiency of this process makes it possible to structure and synergize a common European identity and values. Accordingly, for the EU it is critical to have a political dialogue around conditionality as well as inclusiveness and the consolidation of efforts to achieve a consensus.

Conditionality has been a source of leverage for Europeanisation within the Eastern partnership framework (Delcour and Wolczuk 2013). However, its influence has been constrained both theoretically and practically because this mode of cooperation has not been accompanied by any promise of EU membership (Lavenex and Schimmelfennig 2011:887). Therefore, the changes at domestic levels within this partnership format were not substantial, sustainable and irreversible. This, on its part, emanated from the strictly normative EU agenda and the vulnerability of the Eastern partnership in the field of security (Paul and Ciolan 2021). The Russian intervention in Ukraine fundamentally altered the perception of global security issues among leading European countries and positioned the Black Sea region at the center of the Euro-Atlantic security processes (Kakachia et.al. 2022). The return of full-scale war in Europe (Kakachia et.al. 2022) provoked the revision of EU external policy instruments and made the process of confronting emerging threats inevitable.

European Commission's Conditions for the 'Associated Trio' countries

Positive conditionality is a pivotal issue for the European Commission when it comes to Eastern enlargement (European Commission 2022d). The opinion of the European Commission, regarding the EU membership of Ukraine, Georgia and Moldova was

published on June 17, according to which the Commission recommended candidate status for Ukraine and Moldova, but for Georgia it considered granting a European perspective (European Commission 2022a; European Commission 2022b; European Commission 2022c).

The European Commission's opinion is based on the applicant countries of the Eastern Partnership's demonstrating their European aspirations (European Commission 2022d). For instance, in the case of Georgia, the Commission mentions that the Georgian aspiration towards European values and standards is designated by the Constitution of the country as well as the willingness of the Georgian people (Article 78 of the Georgian constitution NDI 2022).

During the evaluation of the application for membership, the Commission was guided by article 49 of the Treaty on the European Union and also by the Copenhagen and Madrid criterias (European Council 1993; European Council 1995). The European Commission will observe the fulfilment of the conditions delivered to the Associated Trio countries and will introduce the report at the end of 2022 (European Commission 2022d).

Along with candidate status, the conditions issued by the European Commission for Ukraine cover the following points and call upon the Ukrainian government to: (1) enact and implement the selection procedures for judges at the Constitutional Court of Ukraine in line with the Venice Commission's recommendations; (2) finalize selection of the candidates for membership of the High Council of Justice; (3) further strengthen the fight against corruption; (4) ensure that the legislation on anti-money laundering is in accordance with the FATF; (5) implement an anti-oligarchic law; (6) adopt a law on media to tackle the influence of vested interests; (7) finalize the reform of the legal framework for national minorities (European Commission 2022c).

The recommended conditions make it clear that the majority require legislative amendments in Ukraine that are visibly supported politically. The conditions are formulated in a manner that require finalizing the ongoing legislative process or approximating to the EU *acquis*. Therefore, in the case of Ukraine, it is realistic for the conditions to be fulfilled within the dates indicated by the EU (Janse and Kochenov 2022:5), despite the unprecedented Russian military aggression and intervention in the country.

The European Commission calls on Moldova, as a prospective candidate country to: (1) complete comprehensive reform of the justice system by taking essential steps; (2) across all

these areas, address the shortcomings identified by the OSCE/ODIHR and the Council of Europe/the Venice Commission; (3) deliver on the commitment to fight corruption at all levels by taking decisive steps towards proactive and efficient investigations; (4) implement the commitment to “de-oligarchisation” by eliminating the excessive influence of vested interests in political, public and economic life; (5) strengthen the fight against organized crime; (6) increase the capacity to deliver reforms and provide quality public services; (7) complete the reform of Public Financial Management; (8) enhance the involvement of civil society at all levels of decision-making; (9) strengthen human rights protection, particularly of vulnerable groups, and sustain commitments to enhance gender equality and fight violence against women (European Commission 2022b).

Unlike for Ukraine, the conditions for Moldova request not only the finishing of the legislative initiatives, but also the expression of political aspirations in various areas along with their translation into policies, especially in the fields of justice and human rights. Therefore, in accordance with the legislative amendments, Moldova has to visibly reinforce unwavering pro-European values and choices in-line with the political agenda of the EU through essential anti-corruption and human rights policies and justice reforms. At the same time, Moldova has to complete the other steps initiated in the abovementioned areas in order to get closer to the EU *aquis*.

Conditions of the European Commission and the ‘European perspective’ to Georgia

The European Commission recommended only the ‘European perspective’ for Georgia, although emphasizing that Georgia is a European country, and delayed decision-making on candidate status until the fulfillment of its prioritized points (European Commission 2022a).

The conditions of the Commission for Georgia to receive the candidate status

- 1. Address the issue of political polarization**
- 2. Guarantee the full functioning the state institutions**
- 3. Adopt and implement a transparent and effective judicial reform**

4. Strengthen the anti-corruption policy
5. Implement the commitment to “De-oligarchization”
6. Strengthen the fight against the organised crime
7. Improve the independent media environment
8. Strengthen the protection of the human rights of vulnerable groups
9. Enhance the gender equality and fight against violence against women
10. Ensure the involvement of civil society in decision - making
11. Implementing the standards of the European Court of Human Rights
12. Ensure the impartial nomination of the Public Defender

In Georgia’s case, the conditions are formulated in such a manner that their implementation fully or mostly depends on the political decision of the ruling elite. The political and legal aspects require additional research to analyze completely and to examine their conditionality (Smith 1998; Sasse 2008; Lavenex and Shimmelfennig 2011; Viorica 2017). However, the necessity for political consensus and joint decisions is clear.

There has been no consensus and constructive process in Georgia around the conditions of the European Commission. The ruling political elite is not accepting the priorities of the Commission as objective instruments for EU action (Tabula 2022a; Tabula 2022b) indispensable to achieving political, legal and economic compliance with the Union. Polarization in Georgia is resulting in a lack of thematic debates between the two main political actors and is destructive, and this obviously raises questions over the advancement of the country toward Europeanisation (Samkharadze 2022).

Political parties in Georgia did not perceive the conditions of the European Commission as a unifying mechanism for European integration, but rather they used it as a chance for radicalization of the internal political positions. However, the main leverage of Europeanisation - conditionality - is shown to be the most effective instrument since it is followed by candidate status, as demonstrated by the examples of the Central and East

European countries (Epstein and Sedelmeier 2008). As usual, the Union applies positive responses to conditionality as leverage to foster European integration.

Despite the fact that Georgia has European “perspective”, when it comes to assessment for candidate status at the end of 2022, any reforms and developments in individual sectors will not have any influence on the process of Europeanisation. If we look at Europeanisation in theoretical and practical discourses, success achieved in one specific sector does not affect the process (Lavenex and Shimmelfennig 2011). Therefore, internal political radicalization instead of constructive and inclusive processes is especially damaging for the state’s Europeanisation discourse.

The EU based the qualitative difference between the conditions addressed to Georgia and those introduced to Ukraine and Moldova on the negative experiences that have occurred throughout the recent years of Georgia’s cooperation with the EU and its institutions (Emerson and Blockmans (2022). The effect of not fulfilling the agreement that resulted from the mediation of the President of the European Council, Charles Michel, (EEAS 2021) is still visible in the bilateral relationship and is hindering the path of Georgia to attaining candidate status. The negative and accusation-based foreign policy rhetoric strengthens the mistrust of EU institutions of Georgia’s declared choice of Europe membership.

It’s true that, regarding Georgia, the European Commission supports the membership application of the country, although Ursula von der Leyen expressed the necessity of internal political unity for structural reforms and European integration (European Commission Press 2022; Emerson, Blockmans and Akhvlediani 2022). The president emphasizes that for success the state needs a broad political consensus achieved with clear and structural reforms and civil society engagement (European Commission Press 2022). The lack of structural reforms for the development of the state is what differentiates Georgia from Ukraine and Moldova, and therefore it is the crucial precondition for granting candidacy status. During the implementation of the reforms, Georgia will have to demonstrate that the European path is its ultimate internal political choice made with a broad political consensus.

Addressing the 12-point recommendations first of all requires precise internal political consolidation and an inclusive process (European Commission Press 2022). During the implementation of priorities, it is especially important that the 12-point recommendations

do not become a 'moving target' and for that the implementation deadlines and criteria must be distinctly defined (Chkhikvadze 2022).

To grant candidate status, the EU will not enter negotiations with the Georgian government regarding the given conditions, neither will it accept superficial initiatives (for instance, the formal engagement of civil society in the decision-making process) as the fulfillment of the conditions. Fundamental reforms are needed and it is true that Georgia has little time for their implementation, but with political willingness it could be feasible to execute the recommendations of the European commission. At the same time, it will be necessary to strengthen institutional cooperation between EU institutions and Georgia through the use of the existing format, strengthening high-level political dialogues, to achieve more clarity and mutual understanding regarding the conditions of the European Commission.

In case of non-fulfillment of the 12 points conditions, what risks do Georgian-EU bilateral relationship face?

When making decisions regarding enlargement, the EU and its institutions assess not only the internal merits and challenges of the given country but also the impact and importance of the enlargement process at the given moment of history, the prospects for its dealings with and actual foreign policy priorities towards Eastern European countries (Bourguignon et.al. 2022). Therefore, it is especially decisive for Georgia to consider this membership opportunity as exceptional and take advantage of it.

The initiation of the enlargement policy from the EU is a reaction to the ongoing and increasing security threats in Eastern Europe. The aggressive war waged by the Russian Federation in Ukraine has had a transformational impact on the EU, its foreign and security policy, as well as its Member states and the society. For the first time, the EU's increasing security threats and the enlargement policy with Georgia, Ukraine and Moldova have converged. Even in these circumstances, Georgia managed to rapidly lose the support of its European partners due to the internal confrontation between the political parties, which reflects negatively on the strengthening of its democracy as well as on international relations (Sabanadze 2022). This immense failure for Georgia is causing backsliding of its position in the Associated Trio countries that is especially damaging for the country taking into consideration its occupied territories by the Russian invasion in August of 2008.

The conditions addressed to the Associated Trio countries by the European Commission make it clear that Georgia falls behind on the path of European integration for multiple reasons, including:

- withdrawal of the decisive agreement of April 19 by the Georgian political elite, which was achieved through the mediation of Charles Michel;
- Georgian democratic institutions cannot effectively communicate with the EU based on trust and high-level of legitimacy;
- the government did not demonstrate political willingness to implement fundamental reforms at the domestic level in order to ensure the rule of law and protection of human rights.

The Resolution regarding the violation of human rights in Georgia adopted on June 9 by the European Parliament was an indication of a possible critical assessment from the European Commission (European Parliament Resolution 2022). In the Resolution the European Parliament on one hand expresses concern regarding the deterioration of the media environment and safety situation of the journalists, and on the other calls upon the Georgian government to protect media freedom. In addition, according to the Resolution, the European Parliament would support the granting of candidate status to Georgia if the government had fulfilled the conditions of the Resolution (European Parliament Resolution 2022).

Georgia is facing an absolute political risk in being unable to implement reforms and respond to the conditions of the EU. Without candidate status, the Europeanisation process will be de-railed. The changes and reforms on the domestic level, outside the accession process, will be reversed. The Associated Trio approach to the Eastern Partnership is falling apart and Georgia is backsliding, thus from 2023 the country will need much more time to catch up with Ukraine and Moldova in terms of the quality of integration (Nodia 2022).

The deterioration of the Europeanisation process will cause an increase in Russian influence in Georgia, which will be supported and strengthened by propaganda. Russia will have “firm ground” and new “arguments” for disinformation, which in the long-term perspective will weaken transformational, democratic and reform-oriented processes in the country. Therefore, it should be expected that the “immunity” that Georgia developed against Russian pressure will be significantly weakened (Emerson and Kostanyan 2013).

Georgia's defeat on the path of European integration will encourage Russia, due to the fact that its ambition in the region, as is becoming clear, is to be the actor with unconditional influence. Russia has multiple years of experience when it comes to military interventions in the neighboring countries, using them as a 'tool' to impede sovereignty and resist Eastern enlargement of the Western institutions (MacFarlane 2022). In addition, this also further enhances the anti-Western information war. The imperialist interests of Russia might be strengthened by local nihilism or slow progress, which will ultimately undermine the Europeanisation processes. Furthermore, it should be expected that the local groups backed by Russia will be activated through disinformation campaigns in order to support anti-European attitudes across a broad front.

It should be considered that EU enlargement is based on a regional principle and that no other countries in the South Caucasus have expressed a desire to become a member besides Georgia (Chkhikvadze 2022).

By not fulfilling the conditions of the European Commission by the end of 2022 and not receiving candidate status Georgia will:

- lose or miss the opportunity to become an EU member;
- there will be a long-term reversal in the Europeanisation process which will cause political, economic and judicial regression in the country;
- the risks of public nihilism toward the European integration processes will increase;
- Russian-supported anti-western propaganda and disinformation will be reinforced, which is damaging to the European integration process;
- The role of Georgia, as the 'front runner' country in the Eastern Partnership will be weakened indefinitely.

Conclusion

Until the end of 2022 the EU and Georgia have an opportunity to avoid the risks and threats that could emerge for Georgia and the region. The expressed willingness of the EU and its Member countries regarding the enlargement provides an historic opportunity for the Associated Trio countries. This momentum should be employed by Georgia, especially, for its own internal progress and also to enhance the European perspective of the country and the region.

The conditions offered by the EU to Ukraine, Moldova and Georgia, differentiate from each other in terms of political and legal aspects. It is clear that Georgia will need unprecedented internal political unity to meet the conditions, moreover, Georgia has to maintain tight, consistent communication with the EU institutions regarding those conditions. Without candidate status, Georgia will need much more time and effort from 2023 on to advance its relations with the EU and acquire candidate status. Even if the country fulfils the conditions then, the EU might no longer be interested in the accession of new Member states should enlargement policy no be longer a priority.

A positive decision made on Georgia's European perspective would have been an achievement. However, in the existing geopolitical situation, and in the light of the new geopolitical context of Eastern enlargement, not receiving candidate status is a failure for the country. The EU conditions being offered to Georgia will be the main leverage and assessing tool for the Europeanisation of the country. The domestic political process will be the key point of discourse for the country's Europeanisation in order to fulfill the EU conditions before its monitoring report.

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