



Democracy in Peril: Rethinking EU Conditionality for Georgia's Path to EU Candidacy

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The shock of Russia's invasion of Ukraine has re-opened the European Union's (EU) enlargement door and given Georgia, Ukraine, and Moldova a historic opportunity to become integral parts of the European family. While the EU granted Ukraine and Moldova candidate status in the summer of 2022, it gave Georgia a "European perspective" with 12 recommendations to follow in order to be reconsidered for candidacy by the end of 2023. Yet implementation reports by Georgia's democracy watchdogs paint a grim picture of Georgia's progress. According to the latest report by Open Society Georgia Foundation (OSGF, September 2023), the ruling Georgian Dream party has almost fully fulfilled only three out of EU's twelve recommendations. The remaining recommendations have been the subject of heated political debates, and the government has wielded the "de-polarization" and "de-oligarchization" recommendations as instruments of political manipulation rather than vehicles for genuine reform. For example, the Georgian Dream party attempted to pass a law on de-oligarchization that the Venice Commission said could be used for "political abuse" and "arbitrary application" (Venice Commission, 2023). Similarly, it has justified some of its illiberal policies - such as passing [and after protests retracting] a Kremlin style foreign-agents law against civil society - by arguing it served to "de-polarize" Georgian society (Netgazeti, 2023).

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More than a year since the EU issued Georgia with the 12 recommendations, the Georgian government has clearly instrumentalized them for its own illiberal agenda rather than for Georgia's European future. This means that the EU's recommendations need to be re-evaluated and revised to better suit the nature of Georgia's illiberal regime². Re-working EU conditionality on the issue of Georgia's membership bid is crucial even if the Union makes the political decision to grant Georgia candidate status (Jozwiak, 2023), as potential EU candidacy is likely to come with more conditionality for Georgia. Failure to fully utilize the EU's leverage on Georgia risks the country either losing its historic window of opportunity to become an EU candidate state, or becoming a candidate state with an illiberal government on which the EU will have limited influence, like Turkey and Serbia. Either case gravely endangers Georgia's democracy and security, and tilts the balance of power in the South Caucasus region in Russia's favor given the Kremlin's influence over Georgia. The continuation of illiberal rule in Georgia also undermines the EU's transformative power given years of EU investment in Georgia's democratization.

This policy memo begins with an overview of EU conditionality, focusing on two main mechanisms with which it can breed compliance amongst EU candidate or member states. There is both a top-down strategy focused on influencing governments and a bottom-up strategy focused on civil society, opposition, and the public. It then analyzes why the EU's twelve recommendations to Georgia do not align with either of these strategies. On one hand, these recommendations undermine the government's powerbase too much to expect genuine compliance. On the other hand, they lack the clarity and specificity required to empower the public and civil society sector to be the source of change in the country. In light of these challenges, this policy memo argues that EU's conditionality should be reoriented towards empowering Georgia's vibrant civil society and overwhelmingly pro-EU public to be agents of change before the country's 2024 parliamentary elections.

² This policy paper uses Andrea's Sajo's definition of an illiberal regime to characterize the current Georgian government. According to Sajo, an illiberal regime 1) lacks the liberal constitutional instruments that limit power, enabling arbitrary personal rule, and 2) rules by substantive illiberal values, like the imposition of a single world view on society"

Top-down or Bottom-up? Making EU Conditionality Work with Illiberal Governments

Conditionality is widely considered to be the EU's most powerful instrument in driving change and promoting democracy. For many years, the EU has effectively persuaded many member and partner states to follow its rules and norms by offering attractive rewards like EU membership or financial incentives. However, the success of this approach depends on the goals and leadership of the target state. When EU requirements challenge the existing power structure of a state, the Union has been more successful in shifting its focus towards supporting the general public and civil society. This section will provide a clear overview of the two different approaches the EU uses for conditionality - the top-down and bottom-up methods - and explain when one might work better than the other.

Top-down Approach

The prevailing approach to EU conditionality is a top-down mechanism, directed towards the government of an EU partner or member state. By offering substantial and credible rewards in exchange for compliance, the EU has frequently succeeded in getting its member states or aspiring candidates to adhere to EU rules. Studies done on EU's top-down conditionality show, however, that top-down conditionality is most effective when 1) EU recommendations are already in line with the target government's agenda, or 2) the recommendations do not challenge the powerbase of the government (Schimmelfennig, Engert, Knobel, 2003)

For instance, EU conditionality was highly effective in aligning the Czech Republic and Poland with its rules when they were aspiring members, as their government's liberal agenda mirrored EU requirements (Vachudova, 2005). At the same time, it struggled to influence Slovakia's government due to the illiberal agenda of the Mečiar government. Similarly, in Turkey, EU conditionality succeeded in abolishing the death penalty and granting certain rights to minorities in the initial stages of Turkey's Europeanization, as these measures did not directly challenge the government's power base. However, it fell short in curbing Erdogan's "executive aggrandizement" (Bermeo, 2016). In Georgia's case, top-down conditionality has worked in getting the Georgian Dream government to formally

comply with most EU rules under the Association Agreement (e.g.. anti-discrimination bill) as most of these requirements did not directly challenge their grip on power. In fact, it helped strengthen it as these measures conferred the government with the legitimacy of being pro-EU in Georgia's overwhelmingly pro-EU society. However, as soon as EU requirements began to directly challenge the government's powerbase, top-down conditionality has become ineffective, and the Georgian government has begun to instrumentalize it for its own illiberal agenda.

This shows that EU's top-down conditionality has proven most effective with liberal governments that share the same agenda as the EU, and with illiberal governments only if EU requests do not challenge their powerbase. In situations where the EU's top-down conditionality challenges the power structure of illiberal governments, we often observe instances of formal compliance - or compliance without enforcement - as well as what Börzel and Pamuk (2012) term 'pathological' effects of Europeanization - or when EU rules/recommendations are used to legitimize and justify illiberal policies or practices. Both of these cases have frequently occurred in Georgia's case as the Georgian government's dilemma between not wanting to let go of power and at the same time wanting to avoid alienating Georgia's overwhelmingly pro-EU population by appearing anti-European has led them to either only formally comply with EU recommendations, or use EU recommendations to legitimize their illiberal practices.

Bottom-up Approach

When top-down conditionality proves ineffective or produces adverse outcomes, the EU can adopt a bottom-up approach, focusing on mobilizing and empowering civil society, opposition groups, and wider society in the target country. In doing so, it can indirectly influence the government of the target state. This strategy has demonstrated success in cases where the government is illiberal, but where civil society is vibrant and the public overwhelmingly pro-Western. By providing a clear roadmap to EU membership and empowering these groups with resources and legitimacy, the EU can encourage them to become agents of change.

One notable example of successful bottom-up conditionality was Slovakia's EU accession process. After Slovakia was temporarily excluded from the enlargement process due to the illiberal policies of the Mečiar government, the EU shifted its focus towards empowering Slovakia's civil society and preparing the public for the crucial 1998 elections. According to

the EU rapporteur of Slovakia's accession at the time, the EU's message to the Slovak public was clear: "Change this government or forget about Europe."³ Aside from sending clear messages to the public that change was necessary, the EU also supported the creation of the OK 98' campaign in the country in which 58 NGOs cooperated on 63 projects aimed at encouraging the Slovakian public to vote in the elections. The OK 98' campaign organized rallies, concerts, marches to inform the public about the significance of the 1998 elections and mobilize people to vote. In addition to mobilizing people to vote, the OK 98' campaign also trained citizens to monitor elections that many feared would be marred by irregularities and fraud. As a spokesperson for the campaign said, it didn't matter which party the citizens would monitor the elections for as long as they went out and monitored it.⁴ This concerted effort, coupled with overwhelming public support for EU integration, culminated in the end of illiberal rule and the establishment of a new coalition government in Slovakia. Subsequently, the EU initiated accession negotiations with the country.

In summary, bottom-up conditionality is an effective strategy when the public, civil society, and opposition are aligned with EU integration but face an illiberal government. However, for it to work, the European Union needs to orient greater resources towards empowering civil society and sending clearer messages to the public of what is needed for Georgia's European future. As the following section will illustrate with the example of the "de-oligarchization" and "de-polarization" recommendations, the EU's 12 recommendations to Georgia have been neither effective in getting the government to comply or in empowering civil society and the public against the illiberal government.

Georgia: EU Conditionality Too Costly for the Government, Too Unclear for the Public

In Georgia's case, EU's recommendations are too costly for the illiberal government's powerbase to get it to change course. As anticipated, this has led the government to either superficially comply without genuine enforcement or manipulate the EU's suggestions to further their own strategic objectives. Simultaneously, the recommendations remain overly vague and subject to interpretation, falling short of providing a unifying and empowering force for Georgia's vibrant civil society as was the case in Slovakia. This section will delve

³ Jan Wiersma (former Member of European Parliament and Rapporteur of Slovakia), in discussion with the author, Leiden, Netherlands, March 2023.

⁴ Sarlota Pufflerova (Spokesperson of the OK'98 campaign), in discussion with the author, Zoom, May 2023.

into the shortcomings of the EU's recommendations in Georgia, with particular emphasis on the "depolarization" and "de-oligarchization" recommendations. These two, which have arguably ignited the most debate amongst the political class in the country, have been instrumentalized by the government to legitimize illiberal practices rather than bring needed change in the country.

Polarizing Rhetoric & Oligarchic Rule as the Main Source of the Government's Power

While Georgia's society is not as polarized as often depicted, its political system is marked by division. Over eleven years in power, the Georgian Dream party's primary strategy has been to discredit and radicalize political opponents. By exploiting public apprehension towards the previous government, Georgian Dream has maintained its support base. On its part, the opposition has also failed to unite and provide a viable and credible alternative to the public - breeding political apathy amongst the public and leaving them resigned to the belief that no party represents their interests (IRI, 2023). Additionally, political prosecution has been employed to side-line core public concerns and breed further division amongst the public. This pattern, referred to as the "unwritten Georgian political tradition of conducting political vendettas" (Kakachia and Kakabadze, 2022), has clearly obstructed progress.

Oligarchic rule further characterizes the government's grip on power. Transparency International Georgia's 2020 report classified Georgia as a "captured state," with state institutions often serving the interests of Georgian Dream's founder, Bidzina Ivanishvili. This influence spans from the media to the judiciary - with the latest example being the National Bank of Georgia refusing to enforce US sanctions on a close ally of Ivanishvili, Otar Partskhaladze. Despite Ivanishvili's nominal departure from politics in 2013, his influence remains evident in Georgian politics, as Transparency International's 2022 further makes clear.

This all suggests that while de-polarization and de-oligarchization are both very needed in Georgia, expecting the government to fulfill it is equivalent to expecting them to give up their hold on power. Therefore, EU needs to reorient its efforts towards using political conditionality to empower the public and civil society to be the drivers of Georgia's democratic, European future.

EU Recommendations Send an Unclear Political Message to the Public

The EU's recommendations also fall short of effectively empowering civil society due to their inherent ambiguity. This ambiguity provides the government with an opportunity to leverage its influence over information channels to promote its own narrative of what the EU means. For example, it has attempted to pass a law aimed at persecuting political opponents by casting it as a "de-oligarchization" law. Similarly, it justified a controversial Kremlin-style "foreign agents" law by claiming it aimed to de-polarize the Georgian society in line with the EU recommendation. Although the government's justifications are likely not effective in convincing the majority of the Georgian public, it makes it more difficult for civil society, the public, and the opposition to unite under one umbrella and promote their own narrative of what the EU expects from Georgia.

Conclusion & Recommendations

In conclusion, although EU political conditionality has been recognized as the strongest tool for facilitating democratic reform in member or partner states, it needs to be carefully tailored to the target state for it to succeed. As experience with illiberal governments shows, EU conditionality is unlikely to be impactful if it challenges the powerbase of the ruling party. This is precisely the case in Georgia where polarization and oligarchic rule are the ruling party's main means of maintaining power. In this case, the EU can use political conditionality to empower Georgia's civil society and opposition, and send a political signal to the public that change is necessary (i.e. before the upcoming elections). As Slovakia's case demonstrates, this is especially likely to be effective if a country has a vibrant civil society and a public overwhelmingly in favor of EU integration.

With Georgia's pivotal 2024 parliamentary elections coming up, the EU has a great opportunity to reorient its resources towards empowering Georgia's civil society and sending a clear message to the Georgian public that Georgia's EU integration is only possible with a liberal, coalition government. One powerful way this message can be sent to the public is by granting Georgia candidate status conditional on the integrity of the 2024 parliamentary elections. Furthermore, the EU can fund get-out-and-vote-projects like the OK'98 campaign in Slovakia, the main aim of which is to raise the public's awareness of the significance of the upcoming elections for Georgia's democracy. The more the Georgian

public associate the 2024 parliamentary elections with Georgia's EU membership prospects, the more likely they are to take to the polls in high numbers.

That being said, Georgian civil society should reorient its resources from monitoring government compliance to preparing the ground for free and fair elections by training citizens to observe elections and other activities such as organizing concerts, marches, and rallies to encourage the public to vote in 2024. As young adults are most likely to vote for pro-European parties but less likely to participate in elections, it is evident that most civil society activities should be aimed at young adults. Although get-out-and-vote campaigns have been organized in the past, their outreach can greatly be increased in size if civil society organizations better coordinate these campaigns with international funding. Finally, Georgia's pro-Western opposition should unite under a pro-EU umbrella and demonstrate to the public that they can offer a clear alternative to the current government. Given how uneven the political playing field is in Georgia, unity and coalition-rule can be the main way to safeguard Georgia's democracy and its Euro-Atlantic future. For that, however, the opposition has to clearly demonstrate to the public that they can offer a democratic, pro-EU future to the Georgian people.

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Appendix.

List of respondents and their affiliations.

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