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Candidate Status - Georgia at the Crossroads

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Georgian democracy is in bad shape as it faces the window of opportunity for European Union enlargement created by the war against Ukraine. In the past two years, there has been notable democratic backsliding and questions have been asked about the government's commitment to the EU integration process. At the same time, the vast majority of Georgia's population has remained loyal to the EU, as was once again demonstrated in June 2022 after the authorities failed to obtain EU candidate status, when tens of thousands of Georgian citizens gathered in front of the parliament building for one of the largest demonstrations in the country's history. Georgia has a second chance to obtain candidate status when the EU assesses its readiness at the end of this 2023. Policy actors need to create a positive agenda for the process of EU integration. The ruling Georgian Dream party must dissociate itself from anti-Western forces while the EU should let the Georgian authorities know that awarding candidate status will not just be a political decision, and Georgia must meet the 12 prerequisites outlined by the European Commission.

Maturity Test for Georgia

The European Commission gave Georgia 12 recommendations to address in June 2022, implementation of which will be evaluated in the autumn of 2023. The European Union will then decide whether to grant the country candidate status. Most of these recommendations are of a general nature and do not have precise indicators for evaluation. It is difficult to determine what methodology the European Commission will use. The general nature of the recommendations leaves a lot of room for interpretation, which in turn could further deepen polarization in the country.

Georgia's growing role as an energy corridor might lead the authorities there to expect that the EU is to some extent preparing to make a political decision that pays less attention to the extent to which the 12 recommendations have been addressed. It is important to avoid creating such expectations through proper communication by the EU. The Georgian authorities need to know in advance that some of the 12 can be fully implemented by the autumn of 2023, while others, such as ensuring the full and true independence, accountability and impartiality of the judiciary or effective investigation of elite corruption,

will be more difficult to implement in a given time frame. Even in such cases, however, it will necessary for the Georgian government to demonstrate to the EU sufficient political will and the right trajectory or direction of travel.

Implementation of the 12 recommendations, as one stage on the way to Georgia's EU membership, will be a test of the maturity of the country's political elite. This is where it must show the extent to which the government will be able to repair the reputational damage done to the country, restore the trust of the EU and demonstrate commitment to European values. The main responsibility for obtaining candidate status for Georgia falls on the government. The government claims to have already implemented all 12, but the issue of appointing a new public defender remains unresolved, which is a litmus test for the EU institutions. In December 2022, Georgian Dream rejected the candidates submitted by civil society, who had the support of a large part of the parliamentary opposition. If supported by the ruling party, the country would now have a new public defender. It should be noted that it was the candidates supported by civil society that were given the highest rating by the independent commission set up by the Speaker, although their negative attitude to the government was the reason why their candidacies were rejected.

Not Just the 12 Recommendations: Trajectory Is Equally Important

Some progress has already been made on implementation of the 12 recommendations, such as number 11, adoption of appropriate legislation at the national level to enable Georgian courts to proactively take account of decisions of the European Court of Human Rights, and number nine, strengthening gender equality and combating violence against women. Laws on electoral and justice reform have also been drafted and forwarded to the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR). A draft law on de-oligarchisation has also been sent to the Venice Commission.

However, legislation alone may not be enough. The European Union is a values-based union and a country aspiring to membership must demonstrate commitment to these values. Unfortunately, there has been a notable decline in this regard in Georgia in recent years. The legal status of vulnerable groups has deteriorated and, since 5 July 2021, the fact that the instigators of violence against media representatives, broadcasting calls for violence on live television, have not been brought to justice has hung over the government like a sword of Damocles.

Furthermore, in 2019–2021, 28 judges were appointed for life to the Supreme Court of Georgia against a backdrop of ignored OSCE ODIHR and Venice Commission recommendations. These appointments have further undermined the independence of the judiciary and public confidence in it. This, in turn, has been reflected in the relationship between the EU and Georgia. For the first time in 20 years, the EU suspended its microfinance assistance of €75 million to Georgia.

Nor have the authorities yet published the results of an investigation into the illegal wiretapping of members of the diplomatic corps accredited in Georgia, including a former EU ambassador. Moreover, amendments introduced to the Criminal Code of Georgia in the autumn of 2022 considerably restrict the inviolability of the privacy of Georgian citizens. These legislative amendments were sharply criticized by the Venice Commission and deemed to have been adopted in a hurry.

Verbal attacks by the authorities on both international partners and civil society have increased. The tenth prerequisite listed by the EU calls on the Georgian authorities to involve civil society in decision making at all levels. However, the People's Power branch of Georgian Dream plans to submit a bill on controlling foreign grant funding to NGOs in early 2023. It should be noted that Georgian Dream's leaders see no significant difference in terms of values between the People's Power and Georgian Dream. Their activities differ only in terms of tactics.

The EU has kept a close watch on the trial of Nika Gvaramia, founder of the Mtavari television channel, on which the Public Defender of Georgia has noted that only in exceptional cases can a harmful decision taken by a director of an enterprise become a ground for corporate liability, let alone criminal liability. As regards the media environment, it should be noted that criminal prosecutions have been initiated against the owners or founders of three pro-opposition television channels: Mtavari, Formula and Pirveli.

Democratic oversight of the security sector is extremely weak, as was clearly demonstrated by the illegal restriction of freedom of Azerbaijani journalist Afghan Mukhtarli in Georgia in 2017, his kidnapping and transfer to Azerbaijan. Six years later, the investigation into this incident has still not been completed. The Georgian Parliament has refused the request of civil society organizations to create an interim commission to investigate the case.

In parallel with all this, the EU is closely monitoring the health of Georgia's third president, which has recently deteriorated significantly. He is currently in custody and, as EU representatives have noted, the Georgian government is responsible for his health and well-being, and obliged to take all measures to provide him with proper medical care.

In the process of moving towards EU membership, it will be important for the Georgian authorities to understand two issues. First, the EU will not just accept a tick box exercise when it comes to implementation of the 12 points. Equal importance will be attached to how committed the country is to European values. The government should not cherry pick by responding only to those recommendations that are relatively easy to address, that are convenient for it or will pose less of a threat to its power, while ignoring the rest. Second, the authorities must understand that the current gap between Georgia, and Ukraine and Moldova could widen still further, which would force Georgia to stay with the countries in the region that currently have no desire to move towards the EU. There is currently a consensus in the EU regarding eastward enlargement but there is no guarantee that this consensus will last. Georgia has been given a window of opportunity to join the EU along with Moldova and Ukraine. If that window closes, it is doubtful that it will open again in the near future – or that Georgia will be able to open it alone.

Recommendations

- The European Commission should be proactive in providing some interpretation and clarification of what constitutes implementation of the 12 recommendations;
- High-level representatives of the European Union and its member states should be consistent in their statements while assessing fulfillment of the 12 points made by the European Commission;

- As Georgia prepares, drafts and submits new laws, the Venice Commission and the OSCE ODIHR should take account of the political context in the country, and leave less room for interpretation, rather than take a purely legalistic approach to the issue;
- The EU should inform the Georgian authorities in an open or closed format that granting candidate status will not just be a political decision, and that Georgia must address all 12 prerequisites put forward by the European Commission;
- Civil society organizations should ensure that efforts by the authorities to implement the 12 recommendations are assessed and the process is regularly monitored;
- Civil society organizations should provide the citizens of Georgia with detailed information on the importance of candidate status to the country and how it would benefit the country and society;
- The ruling Georgian Dream party must dissociate itself from anti-Western forces, among which the People's Power political association is particularly notable;
- Instead of preparing for another failure to obtain candidate status, opposition parties should create a positive agenda for the process of European integration.



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