



GEORGIA AS A EUROPEAN NEIGHBOUR: PRIVILEGES AND RESPONSIBILITIES

In November 2006 the European Commission's (EC) Georgia Cooperation Council adopted a new document to guide EU-Georgia relations: A European Neighbourhood Policy (ENP) Action Plan (AP). Recognition as a European Neighbour offers a number of potential benefits to Georgia, including the opportunity to diversify foreign policy and to increase economic and political cooperation with a major world economic power. From 1992-2004 the EC provided nearly 420 million Euro in reform grants to Georgia and, within the framework of the ENP AP, it pledges continued financial and technical assistance. Most importantly, however, the AP should serve as a guiding framework and incentive for pushing ahead with reform processes already underway in Georgia.

While the NATO-Georgia International Partnership Action Plan (IPAP)—the other major international agreement structuring Georgia's reforms—carries realistic prospects for future NATO integration, the ENP programme does not envision Georgian accession to the EU as an ultimate goal. In an October 2004 speech on the ENP, EC Delegation Chief Torben Holtze stated that “[the possibility of EU membership], open [to] any European country, has to be addressed in a different framework of relations.”¹ With this in mind, the following report assesses the formulation and implementation of Georgia's ENP AP not as a means to attaining EU Member State status or as an end in itself, but as a tool for achieving realistic and meaningful reforms in the short- and mid-term future.

A Brief History of EU-Georgia Relations

The legal foundation for EU-Georgia relations is the Partnership and Cooperation Agreement (PCA), which was signed in 1996 and entered into force in 1999. The PCA establishes legal mechanisms for EU-Georgia cooperation primarily in the spheres of trade, business and investment, economics, rule of law, human rights protection, and migration policy. It outlines a basic structure for EU financial assistance to Georgia and formally inaugurates a set of institutions responsible for the implementation of PCA objectives, namely an EU-Georgia Cooperation Council, Cooperation Committee, and Parliamentary Cooperation Committee. The Cooperation Council meets annually and delegates from the Georgian side include government officials from the highest levels (ministers and deputy ministers). The Cooperation Committee ranks next in the administrative hierarchy. While the frequency of Committee meetings is not specified in the PCA, this body—like the Council—meets annually. Notably, for a body assigned to “assist the Cooperation Council in the performance of its duties” (PCA Article 83), logic would suggest that the Committee convene more frequently. From the Georgian side Committee membership includes deputy ministers, directors of departments, and independent experts. The Parliamentary Cooperation Committee also convenes on an annual basis.

In the late 1990s the EC signed individual PCAs with each of the CIS countries in an effort to support the growth of market economies in the post-Soviet space. The PCAs have superseded the trade and economic cooperation agreement signed between the European Economic Community, the European Atomic Energy Community, and the USSR in December 1989.² But as the EU continued to expand eastward, integrating

¹ The complete text of this speech is available on the website of the EC Delegation to Georgia at: www.delgeo.cec.eu.int/en/index.html.

² EU relations with non-CIS neighbours (the Western Balkan states, for example) are structured by a different kind of treaty known as an Association Agreement (AA). Relative to the PCA, the AA entails a more intense level of economic integration and



the East-Central European and Baltic states, a severe drop-off in levels of economic and political development became apparent as one crossed over the easternmost EU border into the former Soviet bloc. In response, in 2003 the EC announced a new framework for relations with the former Soviet countries designed to increase security on the new EU borders. The new agreement, the European Neighbourhood Policy (ENP), would focus on increasing political stability and economic prosperity in these countries in order to ultimately increase border security. From the beginning, none of the three Caucasus countries was invited to participate in the programme. Under pressure from all three governments, and upon reconsideration of the strategic importance of the Caucasus region as an energy and transport corridor, however, the EU Council reversed its initial decision in June 2004.³

In the meantime, early in 2004 the new Georgian government established a dedicated body for issues pertaining to European integration—the Office of the State Minister on European and Euro-Atlantic Integration.⁴ Following the EU's invitation to participate in the ENP in June, in July 2004 the government established a Commission for Georgia's Integration into the European Structures, which is chaired by the Prime Minister. This body is assigned to facilitate PCA implementation and participation in ENP-related processes at the highest government level. A quick glance at the Integration Commission's page on the State Minister's website⁵ reveals that its membership is effectively identical to that of Georgia's Cabinet of Ministers. (The only differences are inclusion of the Deputy State Minister and Head of the State Minister's EU Integration Department in, and exclusion of the Civil Integration Minister from, the Commission.) Negotiations on the text of Georgia's ENP Action Plan (AP)—the chief policy document to guide Georgian government planning within the framework of the ENP—were launched between the EC and Georgia's Ministry of Foreign Affairs in November 2005. The document was formally adopted one year later, on 14 November 2006.⁶

Importantly, despite Georgia's recognition as a European Neighbour, the PCA remains in force as the fundamental agreement structuring EU-Georgia relations. That is, for the ten years that the PCA remains in effect every other EU-Georgia agreement must be compatible with PCA provisions. While in certain cases AP provisions may help to implement PCA objectives (in the sphere of economic cooperation, for example), in several policy areas the AP goes beyond the scope of the PCA. Such is the case, for example, in the areas of security policy, crisis management and cooperation on borderland issues. In other words, while the principles and long-term goals set forth in the PCA are to serve as the guiding framework for EU-Georgia cooperation, additional agreements like the AP can expand the breadth of the PCA provided they do not contradict the latter's provisions.

The Action Plan's Progeny, Part I: The Implementation Plan

The AP effectively establishes a set of conditions that the EU expects Georgia to meet in order for future political, economic, and legal cooperation to proceed on ideal terms. It is by definition a bilateral commitment, not a strategy document. While it includes provisions for European financial and technical assistance to Georgia, the real weight of responsibility for bringing rather abstract AP goals to concrete

greater uniformity of political decision-making. Further, the EU provides considerably more financial assistance to partner countries within the framework of the AA than it does within the framework of the PCA.

³ Further, in an October 2004 speech, then-Head of the EC Delegation to Georgia Torben Holtze pointed out that candidate-country Turkey's significant progress in meeting conditions for EU accession suggests that the Caucasus countries may share borders with an EU Member State in the future. (See footnote 1 for citation information.)

⁴ While the State Minister's office was initially established to address issues of EU integration, it has since taken on responsibility for guiding the process of Georgia's accession to NATO as well. The office is responsible for ensuring the compatibility of NATO- and EU-related commitments.

⁵ www.eu-integration.gov.ge

⁶ Georgia's ENP AP is available on the State Minister's office website.



fruition (in a manner best suited to Georgia's circumstances) lies with the Georgian government. In general, the AP does not assign deadlines or specific responsibility for the fulfillment of reform objectives. Indeed, the flexibility of the AP as a reform guide can be interpreted as either a blessing or curse, depending on the government's response.

In an effort to turn very general AP objectives into a concrete reform agenda, in December 2006 the State Minister's office circulated a blank template to every AP-implicated institution with the following line items for completion: ENP AP goal; action; responsible institution(s); deadline (by quarter); anticipated result; reference to MTEF/budget⁷; other [non-budgetary] financial sources; potential challenges; and current status/comments. The template was independently completed by twenty-two government agencies, including all ministries, judicial bodies, Parliament, the Public Service Bureau, the Central Election Commission, the Chamber of Control, and the National Center for Intellectual Property. After the completed templates detailing each institution's reform plan were returned, the State Minister's office "reconciled" and compiled them into a single ENP AP Implementation Plan (APIP). Notably, a neighbour country's adoption of an APIP to guide the implementation of AP objectives is not an EU requirement; the specific measures taken to implement AP-related reforms are the prerogative of each individual government.⁸

The twenty-two government agencies that responded to the APIP initiative did so with varying degrees of timeliness. As a result, when the deadline for submitting the APIP to the Parliament's Cabinet of Ministers on 14 February 2007 arrived, the document was just 80% complete. That 80% was approved while the remaining 20% was submitted to the Cabinet a week later, on 21 February. In addition to poorly reflecting on the ministries' and other agencies' commitment to AP objectives, the rather haphazard manner in which the APIP was presented to the Cabinet calls attention to the inherent weakness of intra-governmental coordination on mid- and long-term policy planning issues. In this regard it should also be noted that the Ministry of Economic Development, which bears a majority of responsibility for the implementation of AP objectives, was particularly delinquent in submitting its completed Implementation Plan template to the State Minister's office. (It is also worth reiterating here that since Cabinet membership and EU Commission membership are nearly identical, it is unlikely that the APIP will be subjected to further debate or discussion at a "higher" government level.)

While the government plans to adopt the APIP in mid-March, mechanisms for the internal monitoring of progress toward APIP goals have yet to be worked out on paper. According to Georgian-European Policy and Legal Advice Centre (GEPLAC) Georgian Director Kakha Gogolashvili, the final APIP document must include provisions to ensure the accountability of the ministries and other APIP-implicated agencies to the EU Integration Commission (again, effectively the Cabinet of Ministers.) While a schedule for the submission of implementation progress reports has yet to be established, Gogolashvili asserts that agency progress will be reviewed at minimum on a quarterly basis, since the Commission convenes every three months. (Further, as noted above, the blank template that was distributed in December required government agencies to set deadlines by quarter.) According to the existing legislation, the Prime Minister can order any agency to take specific action in case of negligence of APIP-related responsibilities. According to Gogolashvili, however, the State Minister should also have the right to make specific requests of APIP-implicated agencies as appropriate. In general, the adopted APIP should delegate more responsibility for the monitoring of APIP progress to the State Minister's office than has been assigned thus far.

⁷ The MTEF, or Medium-Term Expenditure Framework, is the Georgian government's recently adopted budgetary planning scheme, which forecasts budgetary needs for a three-to-five-year period. The MTEF for 2007-10 is available on the Ministry of Finance website at: www.mof.ge.

⁸ ENP partner countries Ukraine and Moldova adopted APIPs in 2004 which are set to expire in 2007.



Progress in the implementation of APIP objectives is to be assessed every six months by the EU-funded GEPLAC, the Georgian government's chief advisory body on EU integration. While a representative of the State Minister's office described the APIP as a "working document" to be revised every six months, Gogolashvili stated that the document will be subject to minimal revision on an annual basis only, as necessitated by yearly adjustments to the state budget.

As in the drafting process for Georgia's ENP AP, civil society has been noticeably excluded from the process of APIP development. The APIP will be made publicly available only after it is adopted by the government, at which point significant revisions to its content will be nearly impossible. Among the potential concerns are references in many AP priority areas to "twinning" to meet EU norms and standards. Are these standards realistic, necessary, or even appropriate for Georgia? While an independent agency's (GEPLAC) semi-annual review of APIP implementation progress is critical to the monitoring effort, it remains unclear how the government will keep the public informed on progress towards APIP goals.

The Action Plan's Progeny, Part II: Legislative Harmonisation

At this stage of cooperation Georgia is committed to ensuring that all of its legislation is compatible with—that is, either "harmonised with" or "approximated to"—that of the EU. Georgia's existing framework for legislative reform, the National Programme on Law Harmonisation (NPLH), was developed with the provisions of PCA Article 43 ("Legislative Cooperation") in mind. Importantly, Article 43 calls for approximation of Georgian legislation with that of the EU in spheres regulating economic activity (customs, corporate law, taxation, rules on competition, environmental protection, agricultural production and food safety, standardisation, and labor conditions, etc.). But according to Gogolashvili, the NPLH adopted in 2004 was broadly conceived and overly ambitious. Further, it failed to provide a timeline or sequence according to which the legislative reforms would proceed.

Now the government is planning major revisions to the NPLH based on the more concrete legislative reform goals set forth in the ENP AP. The scope of AP-related legislative reforms is narrower and more realistic than those envisioned in the PCA-based NPLH. According to the Parliament's Committee on European Integration, the revised NPLH will be tightly matched to specific AP objectives. There is talk of appending content from the revised NPLH to the APIP to make explicit the correspondence between new legislative acts and AP reform priorities. Accordingly, the process of NPLH revision will not be undertaken until the APIP has been adopted in its entirety.

Building Human Resource Capacity

A widely-acknowledged obstacle to EU-Georgia cooperation and, most recently, the development of the APIP, is the inadequacy of human resources in the Georgian government institutions. While the EU is helping to increase Georgia's human resource capacity in many respects, including expert consultations offered at the deputy ministerial level, there remains much work to be done. GEPLAC, whose activities are geared specifically towards the attainment of PCA- and ENP AP-related objectives, has assumed a leading role in the training of Georgia's civil servants. It has also brought government staff together with private sector associations for training on issues like investment and commercial arbitration. On an international scale, GEPLAC has taken Georgian government representatives to Croatia, Estonia, and Lithuania to attend lectures on those countries' EU accession processes. It has also organised consultative meetings between twin ministries in Georgia and EU Member States.



But there are a number of obstacles to GEPLAC's activity. According to a November 2006 GEPLAC statement, Georgian government agencies lack not only qualified personnel, but numbers of personnel.⁹ GEPLAC's recommendations call for increased staff capacity in the State Minister's office and the ministries' Euro-Atlantic integration divisions in particular. The constant turnover of ministry staff constitutes a second major obstacle to the efficiency of GEPLAC's training and consultative activity. The support GEPLAC provides includes technical and consultative components frequently designed with individual ministry positions in mind. But newly-trained personnel are leaving, or dismissed from, their positions in the ministries on such a frequent basis that GEPLAC is constantly struggling to make its impact felt.

EU Integration and Georgian Civil Society

While a dedicated Information Centre has been established to inform the Georgian public on issues pertaining to NATO integration¹⁰, at present there is no analogous body responsible for communicating with the public on ENP-related processes. The Parliament's Committee on European Integration, however, plans to open the doors of an EU-Georgia Information Centre to the public at the end of March. The opening of the centre is the result of two years of cooperation and planning between the Georgian Parliament's European Integration Committee, the EU-funded project "Support to reform of Georgia's Parliament," and experts from the Latvian Parliament's European Integration Committee with financial support from the TACIS programme. The centre will simultaneously serve the internal needs of Parliament (i.e., support the research needs of MPs and staff) and function as a civic education center on EU integration for the general public. It will be located on the ground floor of the Parliament building, at the entrance just prior to the security window to ensure easy public access. The centre will have a full-time staff of experts to coordinate research, prepare materials for public distribution, and serve the needs of Parliament, journalists, students, and civil society representatives. The centre will function under the joint auspices of Parliament's Integration Committee and the governmental Commission for EU Integration.

In the future GEPLAC will assist the State Minister's office to establish a second EU-Georgia Information Centre to serve the needs of government ministry staff primarily. The State Minister's Centre will serve as a dedicated workspace for issues pertaining to EU-Georgia cooperation. It will employ a small staff of experts and provide computers and a library of relevant print materials for research purposes. While systematic cooperation and division of roles between the Parliament/public- and government- targeted information centres has been cited as a future goal, it is not entirely clear why a single centre cannot be designed to serve all of these needs from a single location, perhaps under the auspices of the State Minister's office. Chief of Staff of the Parliament's Committee on European Integration Nodar Kherkheulidze cited convenience as an important factor in the need to maintain an information centre within the Parliament building, literally at the fingertips of MPs and staff members.

Conclusion

The text of Georgia's ENP AP stipulates that the document will remain in effect for five years, or through November 2011. It calls for an initial review of implementation progress after two years—seemingly rather late for an agreement that expires after just five years. But the Georgian government's Commission for EU Integration has expressed its intention to fulfill all AP objectives within just three years. The State Minister's office has been directed to set APIP deadlines accordingly. According to a GEPLAC representative, the

⁹ "Guidelines for the development, implementation and monitoring of the implementation programme from the EU-Georgia Action Plan," November 2006. Available on the GEPLAC website at: www.geplac.org.

¹⁰ The NATO Information Centre currently functions under the auspices of the Georgian Ministry of Defence.



Georgian government insisted on a three-year AP throughout the course of its negotiations with the EC. As noted above, Ukraine and Moldova both signed three-year APs at the beginning of 2005; an intensified integration agreement could have helped boost the Georgian government's image both among the public and on an international scale. As it stands, however, Georgia's AP will officially remain in effect for five years. While questions have been raised about the government's preparedness to fulfill all AP objectives in just three years, the accelerated plan may, at minimum, put pressure on the responsible ministries and generate a sense of momentum to push reforms forward in a timely manner.

Government and civil society representatives agree that a document like the APIP, which assigns specific responsibilities, sets explicit deadlines, and coordinates reform-minded legislative decision-making is a requisite element of Georgia's reform strategy. In other words, regardless of the nature of current or future EU-Georgia relations, the government would sooner or later need to develop a strategy document along the same lines as the APIP. EU financial and technical support for reform processes can only help to systematise and strengthen the efforts that have been made thus far by the incumbent government. The thorough and timely fulfillment of ENP Action Plan objectives is likely to earn Georgia greater privileges as a European Neighbour, among them tariff-free trade agreements, freer movement of people and goods across borders, and the security of increased political and economic integration.

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