

To Punish or Not: The EU's Dilemma in Responding to Georgia's Democratic Backsliding

Adopting the “Transparency of Foreign Influence” law by the ruling Georgian Dream party has significantly strained Georgia-EU relations. This action crossed critical red lines, causing bilateral ties to reach a low point. This shift is evident in EU policy making, with numerous warnings and statements leading to discussions in the EU Foreign Affairs Council and later in the European Council regarding the EU's response to Georgia's democratic backsliding. According to the European Council's [conclusions](#) on 27 June 2024, Georgian authorities are urged to “clarify their intentions by reversing the current course of action which jeopardizes Georgia's EU path,” de facto leading to a halt of the accession process. Despite opposition from Hungary, this stern statement was included in the final text. This development is particularly concerning ahead of the October 2024 parliamentary elections. Additionally, the European Union

has prepared an options paper for Georgia, outlining short, medium, and long-term remedies in the event of further deterioration and democratic backsliding. Given that the EU requires unanimity on some topics, some of the proposed actions are designed to require the consent of only some member states.

The European Union seems to be prepared to initially implement short-term measures that do not require unanimity. These measures include (1) scaling down engagement with the Georgian authorities, (2) halting the disbursement of EU funds to Georgia, and (3) suspending funding for the European Peace Facility (EPF), which provides non-lethal aid to the country. Since 2021, Georgia has benefited from the EPF, receiving over EUR 62 million to strengthen its defense forces through medical equipment, engineering equipment, logistics support, and cyber defense enhancements.



VANO CHKHIKVADZE
Contributor

Vano Chkhikvadze is an EU Integration Programme Manager at Civil Society Foundation (CSF), specializing in EU-Georgian relations and advancing projects for Georgia's European integration. With a background as a country analyst for the European Stability Initiative and prior roles at the Eurasia Partnership Foundation and the Office of the State Minister on European and Euro-Atlantic Integration in Georgia, he has extensive experience in monitoring EU program implementation in various areas. Vano Chkhikvadze also oversees EU projects related to regional cooperation. He holds a Master's Degree from the College of Europe in European Advanced Interdisciplinary Studies and another from the Georgian Institute of Public Affairs in Policy Analysis.



© GEOPOLITICS

The EU has already decided to [freeze](#) EUR 30 million in assistance to the Georgian army this year, with further measures under consideration if the situation in the country continues to deteriorate.

The EU also envisages mid-term measures that might be triggered in the case of violence and intimidation during the election process. These measures include (1) introducing temporary Schengen zone visa requirements for holders of Georgian diplomatic passports and (2) imposing visa bans and asset freezes under the EU's [Global Human Rights Regime](#). These sanctions would likely target low or mid-level representatives of Georgia's law enforcement or judiciary structures.

The most severe yet less likely option is for the EU to introduce visa requirements for Georgian citizens who have enjoyed visa-free travel to the EU and Schengen zone countries since 2017.

The most severe yet less likely option is for the EU to introduce visa requirements for Georgian citizens who have enjoyed visa-free travel to the EU and Schengen zone countries since 2017. If this clause is triggered, its repercussions will bear not only heavy political costs to the government but also to the citizens of Georgia.

Despite being discussed at the EU Foreign Affairs Council, none of these measures has been triggered yet, except for freezing EUR 30 million and effectively halting the accession process. As the outgoing High Representative for Foreign Affairs and Security Policy and Vice President of the European Commission, Josep Borrell, [stated](#), all of these measures “can be implemented immediately, but the EU will continue monitoring the situation and take more measures if further deterioration occurs.” This stance is also reflected in the Council [conclusions](#): “The Council discussed possible courses of action in the case of a deterioration of the situation and will continue monitoring the situation

and adapting EU measures as necessary.”

All Eyes on the Elections

The European Union outlines the framework for understanding sanctions in three key documents: (1) [Guidelines](#) on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy, (2) [Basic Principles](#) on the Use of Restrictive Measures (Sanctions), and (3) Best Practices for the Effective Implementation of [Restrictive Measures](#).

Additionally, the Council [Regulation \(EU\) 2020/1998](#) of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses should be consulted in order to find the list of individuals and entities sanctioned by the EU under the Global Human Rights Sanctions Regime, also known as the Magnitsky sanctions. As of July 2024, 105 natural persons and 23 legal entities are on the sanctions list. None of these sanctioned entities comes from EU candidate countries. However, in April 2023, at the request of Moldova, a [framework](#) for targeted restrictive measures was established against persons responsible for actions that undermine or threaten the sovereignty, independence, democracy, rule of law, stability, or security of the Republic of Moldova.

As defined by the guidelines on implementing and evaluating restrictive measures (sanctions) within the framework of the EU Common Foreign and Security Policy, the objective of sanctions is to impose restrictive measures as incentives to encourage the required change in policy or activity. The European Union also emphasizes the importance of effectively communicating this message. The guidelines state: “The EU and its Member States should actively and systematically communicate on EU sanctions, including with the targeted country and its population.”

The EU’s response to the actions of the Georgian authorities has hitherto been delayed and occasionally lacks proper calibration.

The EU’s response to the actions of the Georgian authorities has hitherto been delayed and occasionally lacks proper calibration. The EU is now awaiting the general elections scheduled for 26 October 2024 which have effectively become a referendum on Georgia’s democratic trajectory, EU path, and foreign policy alignment. The EU has called on the Georgian authorities to ensure that the autumn parliamentary elections are free and fair; otherwise, this could lead to a de jure halting of the accession process. However, this might be difficult to achieve because EU integration enjoys widespread public support in Georgia, and halting this process without proper communication and explanation could lead to disappointment on the part of society. De jure halting of the accession process requires unanimity, and Hungary is expected to oppose such a move staunchly.

The EU must recognize that halting the accession process would not punish the Georgian Dream party and its supporters. Instead, the Georgian Dream would likely welcome an end to the process and the accompanying commitments, and they would entirely blame this failure on the European Union.

Similarly, from a geopolitical perspective, the EU would find it challenging to de jure halt the accession process. The EU would need to repeat the approach taken with Türkiye in June 2018 when the Council [decided](#) that “Turkey has been moving further away from the European Union. Therefore, key accession negotiations have selectively reached a standstill, and no further chapters can be considered for opening or closing.” The EU must recognize

that halting the accession process would not punish the Georgian Dream party and its supporters. Instead, the Georgian Dream would likely welcome an end to the process and the accompanying commitments, and they would entirely blame this failure on the European Union.

Saying this, there is a wait-and-see policy – on the one hand, from the EU's side and, on the other, from a large part of the Georgian population. The EU is waiting to see whether or not the ruling Georgian Dream party gets reelected on 26 October 2024 through free and fair elections for the fourth consecutive term despite derailing Georgia from the EU path. In this case, the EU will probably consider that the majority of the Georgians are okay with the fact that EU-Georgia relations are frozen and might not even think to apply harsh sets of sanctions to Georgian Dream representatives. Georgian society expects the EU to apply the sanction mechanism now since the ruling party has already stopped Georgia's EU accession process, and this is something for which it has to pay a price. With this move, the EU might be killing two birds with one stone – namely, making sure that the Georgian Dream pays the price for its wrongdoings as well as sending yet another clear signal to the pro-government electorate ahead of the general elections that having the Georgian Dream and its anti-European actions is not compatible with going down the EU path, and they will have to make a choice.

Calibration Matters

The Georgian Dream keeps the European Union in a reactive stance. The proposed options to respond to its moves undermining Georgia's democracy are either weak or unlikely to achieve the goal of changing its policy or activity. The Georgian Dream is indifferent to the declining engagement at the highest political level vis-à-vis the EU, and this is something it can tolerate. Experience shows that scaling down engagement with the Georgian

authorities might not push them to change their policies. For the Georgian Dream, this would not deter its efforts to distance itself from the EU. A recent example is Russia's annexation of Crimea in 2014. In response, the EU suspended high-level political and human rights dialogues with Moscow, but this did not stop Putin from launching a full-scale war against Ukraine in 2022.

The Georgian Dream also argues that the EU will not maintain coherence and persistence in its policies and principles, and the ruling party's leaders will still have opportunities to engage with EU member state leaders in various multilateral formats. Recent experiences suggest that this calculation might be accurate. Despite adopting a Russian-style law on foreign agents in May 2024 and beating and threatening peaceful demonstrators, opposition politicians, civil activists, and media representatives, as well as making harsh statements on Ukraine, Georgian Prime Minister Irakli Kobakhidze was still invited to the Ukraine Recovery Conference held in Berlin on 11-12 June 2024. Additionally, Foreign Minister Darchiashvili attended the NATO Washington Summit on 9-11 July 2024, and PM Kobakhidze was present at the European Political Community meeting on 18 July 2024 and was invited to the opening of the Olympic Games in Paris 2024.

International partners explain these invitations as a demonstration of their readiness to engage with the Georgian Dream if it changes its stance and does not push it toward the Russian orbit. In contrast, the ruling party uses these forums for internal consumption, attempting to show its voters that its leadership is still accepted at international forums.

The proposed set of possible sanctions discussed by the EU Foreign Ministers has left a bitter taste and caused dissatisfaction among a significant part of civil society.

The proposed set of possible sanctions discussed by the EU Foreign Ministers has left a bitter taste and caused dissatisfaction among a significant part of civil society. Georgian authorities have experience dealing with suspended EU financial support. In 2021, the EU refused to provide a second tranche of micro-financial assistance of EUR 75 million to Georgia, which was [conditioned](#) on carrying out substantial reforms in the judiciary. However, the Georgian Dream's leadership managed to act preemptively and efficiently sell this move to the public as if the Georgian authorities refused the funds to reduce the foreign debt due to the country's high economic growth.

The Georgian Dream's authorities might apply the same approach now, given that, according to the official [data](#) of the National Statistics Office of Georgia, the average real GDP growth for January-May 2024 equaled 9.3 percent. Additionally, the Georgian authorities expect Chinese investments, with a Chinese consortium expected to invest in the Anaklia Deep Seaport. Former Prime Minister Irakli Gharibashvili has also proposed building a new international [airport](#) in Tbilisi instead of a military base, which would ensure the hard security of the capital to the local Chinese business community.

When considering the possible introduction of temporary Schengen zone visa requirements for the holders of Georgian diplomatic passports, it is important to keep in mind that the diplomats also possess regular passports. Given that Georgian citizens can travel visa-free to EU and Schengen zone countries, diplomatic passport holders will not face any difficulties traveling. Therefore, introducing temporary Schengen zone visa requirements for Georgian diplomatic passport holders

will not have a significant impact, if any at all.

Coordination also Matters

While the EU remains hesitant to apply sanctions to Georgian Dream members who are derailing Georgia's European future and acting against the Georgian Constitution and the wishes of its people, the US State Department has already sanctioned dozens of Georgian individuals in its first tranche of sanctions. However, due to personal data protection, the names of those sanctioned remain private, undermining the punitive effect of such sanctions.

The European Union can enhance coordination on sanctions targeting the Georgian authorities with the USA and potentially with like-minded partners like Australia, Canada, and the UK. This coordinated effort would help ensure that, in the absence of a justice and accountability mechanism in Georgia, the sanctions are accurate and well-calibrated. It would also demonstrate the support of Georgia's friends toward the Georgian public's desire to pursue the EU path.

The EU only has a short period before the elections to walk the walk instead of talking the talk.

The EU only has a short period before the elections to walk the walk instead of talking the talk. Either it develops credible sanctions mechanisms towards the Georgian Dream before the elections and shows its consistency and force, or the currently proposed half-measures will only embolden the Georgian Dream and further derail Georgia's democratic trajectory ■