

# Analysis

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## **Sharpening EU Policy towards Georgia** **Dov Lynch, 18 January 2006**

The appointment of a new EU Special Representative towards the South Caucasus offers an opportunity to review EU policy towards the region. The following Analysis is an extract of a *Chaillot Paper*, entitled 'Why Georgia Matters' (written by Dov Lynch and to be published in February 2006), focusing on how the EU can sharpen its policy towards Georgia in particular.

The Analysis is divided into two parts. The first part explores the limits and principles that could guide EU actions in Georgia. The second part examines two areas where the EU can upgrade its political role in Georgia with the objective of strengthening the Georgian state and creating conditions for progress towards conflict settlement. The two areas are: Fuller EU engagement in the reform of the Border Guard service and acting as a framework for the opening of the separatist areas of South Ossetia and Abkhazia.

## I. Limits and Principles

First, the limits of EU engagement must be clear.

Georgia is not Bosnia Herzegovina, and the South Caucasus is not the Western Balkans. For all its importance, Georgia is not a first order priority for European security. It matters, but other items matter more. This *Chaillot Paper* does not argue that the EU should paint Georgia 'blue and gold' in the colours of the European flag, or that the EU should become a leading player proposing complex solutions to all of Georgia's problems.

EU foreign policy towards Georgia is deeply constrained. The EU faces constraints of urgency, with more pressing questions on its foreign policy agenda. The political crisis shaking the Union since the French and Dutch referenda leaves little room for ambitious external action. Moreover, the EU is constrained by the way it acts in foreign policy. Given its rules and regulations, the Union simply cannot act as the US does or disburse financial support in the same way. Furthermore, the Union is constrained by divisions between member states, which Georgia has sometimes tended to divide.

Despite these constraints, the EU can raise its profile in Georgia to the level of its interests. And the Union has strong assets to bring into play. The EU is a unique formation of states, united by a common history and democracy. Founded on a shared sense of destiny, the strength of the Union lies in the desire to act jointly and prosper collectively. The EU does not propose to approach Georgia exclusively through military means. Nor is the Union's objective to extend its exclusive influence. The EU does not act in the same geopolitical game with the US and Russia. The EU maintains an expanding sum vision of the region's future and has rejected zero sum approaches. Given these strengths, the Union can act credibly as an honest broker in Georgia. It has also a uniquely comprehensive approach to security problems that combines soft and hard power. Another strength resides with the promise the EU can raise for Georgia's future - the promise of Georgia's integration into *Europe* if not the *EU*, and the promise of its rejoining mainstream European history. The interweaving of action in the present and promise in the future makes the EU uniquely positioned to support Georgia's transformation.

In so doing, EU should be guided by four principles of action.

### 1) *Tough Love*

The first principle is that of tough love. As much as the EU enhances its presence in Georgia, the Union must be unrelenting in monitoring Georgia's transition process. As progress is commended, slippages and deficiencies should be challenged. Illiberal elements in Georgia's nascent democracy should not be countenanced.

### 2) *Reject the Status Quo*

Georgia's territorial integrity is a key interest for the EU. As much as the Georgian and American governments, the EU should declare that it will not accept a continuation of the status quo in Abkhazia and South Ossetia. The use of force in these conflicts must be rejected. However, the status quo is volatile and dangerous. The starting principle for EU policy should be to break the inertia that has entrenched these conflicts and to launch new dynamics that may with time lead to their settlement.

### 3) *Coordinate with the United States*

Transatlantic cooperation is vital for the fulfilment of American and European aims in Georgia. Stronger coordination across the Atlantic is also vital for Georgia's transformation.

### 4) *Engage Russia*

The EU cannot avoid Russia in Georgia. In contrast to the ostrich instinct it sometimes displays, burying its head in the sand when Russia is mentioned, the EU should actively engage Russia in Georgia. This will not be easy; EU and Russian interests in Georgia are not the same, and cooperation is always difficult. Nonetheless, a starting assumption in EU thinking should be that the Russia-EU strategic partnership would be constructed in the shared neighbourhood *or not at all*.

## II. Towards New Policy Lines

The aim here is not to develop a full strategy towards Georgia, nor to determine the full range of aims that should lead EU policy. Georgia's future relations with the EU are not addressed. The question of a whether Georgia may some day join the accession track is beside the point for now. The argument made here is that the EU should have a foreign policy towards Georgia that puts aside for now any notion of enlargement. The focus falls on functional areas where the EU has an interest and where its assistance may make a difference. The aim is to determine what should be EU objectives in the short term and to explore policy lines that flow from these.

Over the short term, EU policy should be guided by two objectives.

### 1) *Strengthening the State*

The first objective should be to strengthen the Georgian state in terms of its ability to enjoy full sovereignty. Here, the EU should support the *first order reforms* now being undertaken by the Georgian government. Georgia must become a fully-fledged state before it can undertake the *integration reforms* that will draw it closer to the EU as a political, economic and social model.

### 2) *Changing the Dynamic*

The second objective must be to break the inertia that has entrenched the status quo in Georgia's two conflicts since the early 1990s. There is no need now for the EU to join the negotiating mechanisms in either conflict. Instead, the EU should seek to change the logic that supports the volatile status quo in the conflict zones in a way that peacefully opens the path towards new relations between the separatist regions and Tbilisi. This would open the horizon for tackling the status of these regions.

Flowing from these objectives, the EU should focus on three functional areas.

### **Judicial Reform**

The EU has been active in supporting judicial reform in Georgia for years through dedicated Commission activities as well as through the deployment of a Rule of Law Mission in 2004-2005. In 2006, judicial reform remains a pressing question before the Georgian government. The EU can do more to prod along and support the Georgian government in this area. Without effective and comprehensive reform of its judicial sector, Georgia's overall transformation will fall under question. The rule of law, so vital for Georgian democracy and economic development, will remain weak. Also, worrying questions will remain about the balance of powers and their separation in Georgian politics. It is vital to move forward in this area. The range of measures needed is wide-ranging, but the EU can help Tbilisi to undertake a concerted effort in this direction.

In so doing, the EU could strengthen the follow-on element of the Rule of Law Mission that is present in the EUSR Team in Tbilisi. More staff and additional resources, combined with relevant elements in the EUSR mandate, would be important. More importantly, judicial reform should become key focus of Commission-led activities in the framework of the ENP Action Plan. In this respect, member states can play a vital role by committing to twinning programmes with the Georgian government to support judicial reform comprehensively and over several years.

### **Border Security Assistance**

After the BMO crisis of early 2005, the EU started to assist the Georgian government in the reform of its Border Guard service. The EUSR Team in Tbilisi has nine EU staff dedicated to this task. In November 2005, the Team produced an Assessment Report on the state of the Border Guards. Assisting the reform of the Border Guards must be a priority for the new Special Representative and the Team in Tbilisi. The new mandate for the EUSR of early 2006 calls for a stronger EU role precisely in this area.

Thus far, this reform has not been a focus of the Georgian government. Relative to the Armed Forces, the border service has remained under-funded, under-equipped and under-trained. Georgia's border service is still driven by an outdated militarised border doctrine unsuited for Georgia's current needs. With no control over its borders inside the separatist 'states,' it is vital that Georgia secure the sections of border that remain under its direct control. It barely does. According to a Georgian study of 2004, most of the cross-border smuggling entering Georgia does not pass through the separatist

regions, as is often assumed, but through specific sections of its border with Armenia and Azerbaijan.<sup>1</sup> In addition, the OSCE mission reported 800 hundred illegal border crossings across the Russian-Georgian border in 2004; in 2005, the Georgian Border Guards reported none due to a lack of patrolling and active monitoring.<sup>2</sup> Something is wrong.

EU engagement in this area could include the following items:

- a) Support the creation of an inter-agency commission in the Georgian government to lead Border Guard reform.
- b) Support the drafting by the Georgian government of an integrated Border Security Concept, setting out a full threat assessment and defining the main lines for the development of the Border Guard service, its relation to other departments and ministries, its central and field organisation, as well as its planning and procurement system.
- c) Coordinate the activities of other organisations (the OSCE launched a border training programme in 2005) and states that are involved in this area to enhance cooperation.
- d) Increase the number of EU trainers in Georgia, with more co-locations in Tbilisi and in the field, in order to assist the development and implementation of an integrated training programme.
- e) Consider joint actions to provide equipment support to the Border Guards, especially to bolster transportation, detection and communication, and to rehabilitate the Border Guard Training Centre.
- f) Include in the ENP Action Plans with Georgia, Armenia and Azerbaijan a section on EU support to the cooperation on shared border management. For Georgia, such cooperation could draw on the resources and experience of the ENP instruments for cross-border cooperation.
- g) Consider in late 2006 the deployment of a EU Border Assistance Mission on the lines of the mission on the Moldovan-Ukrainian border launched in December 2005 (69 observers for 24 months). This Mission could be deployed on sections of Georgia's border with the North Caucasus in support of more active patrolling of this section by the Georgian Border Guard service. The Border Assistance Mission could provide the framework for confidence-building and practical cooperation between Georgia and Russia in this key area.

These ideas are more technical than political. Some of them found place in the review of the EUSR mandate in early 2006. On the whole, they propose a continuation of the process the EU has already launched with the EUSR Border Support Team. Strengthening the Team in terms of mandate and staff addresses a first order challenge facing the Georgian state that weakens its sovereignty and poisons relation with its neighbours.

Since the withdrawal of the OSCE border mission, Georgia's border with the North Caucasus has been left largely unmonitored due to the poor state of the Georgian Border Guard service. In late 2006, as the reform of this service gathers steam, a EU Border Assistance Mission could provide support for the start of more active Georgian patrolling and monitoring of this border. This would not contradict Russian concerns. Quite the contrary; having a stable and transparent border with its southern neighbour is a vital interest of the Russian government. Greater EU involvement could also provide a framework for enhanced cooperation between relevant Russian and Georgian departments, something that Moscow has advocated since 1999. In mid 2004, both Tbilisi and Moscow agreed to the principle of joint patrolling on their shared border. The Border Assistance Mission could act as framework for confidence-building and real cooperation.

On the whole, ensuring Georgia's border security requires more political will from Tbilisi than Brussels. The Georgian government has not addressed its border security problem with the attention and energy it requires. Georgia must act for the EU to support it.

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<sup>1</sup> See Aleksandr Kupatadze and Roman Gotsiridze, *Smuggling through Abkhazia and the Tskhinvali Region of Georgia* (US Transnational Crime and Corruption Centre, Tbilisi Office: Tbilisi, 2004).

<sup>2</sup> Only an estimated 10 percent of the crossings were by armed men.

The value added of these measures would be three-fold. First, the EU would draw Tbilisi's attention to a key area for strengthening the Georgian state. Second, the EU could assist the transformation of Georgia's Border Guard service from a collapsing Soviet structure to an integrated system more fitting for the 21<sup>st</sup> century. Finally, strengthening Georgia's border security is important for both EU and Russian security - all parties stand to profit.

### **Opening the Conflicts**

The separatist 'states' have become deeply entrenched over the course of the last decade. With every day that has passed since the Rose Revolution, Tbilisi has become more frustrated with the continuation of the status quo. At some point, these contrary logics will clash, as they did in the summer of 2004. What can be done?

EU policy should be driven by a single idea: to de-block the conflicts on the ground and open up the separatist areas with the aim of preparing the ground for more effective talks on the status of the regions inside Georgia. This would not contradict the basic principle of EU policy towards these conflicts, which is to ensure Georgia's sovereignty and territorial integrity. It also falls in line with the reviewed EUSR mandate, which places emphasis on the EU being active in seeking to create the conditions for progress in the settlement talks.

Over the last fifteen years, Abkhazia and South Ossetia have become deeply isolated. Both have been largely cut off from Georgia, except in terms of smuggling and organised crime across the front lines, and from the wider world, without travel documents, the Internet, or any of the positive aspects of globalisation. The populations living in South Ossetia and Abkhazia have endured deeply impoverished lives with low horizons. Yet, they have survived.

Internally, they have developed the minimal structures necessary for survival, driven above all by their political vision of independence from Georgia. The authorities in Abkhazia and South Ossetia are not seeking a better *share* of power in Tbilisi; they want to *leave* Georgia altogether. The economic duress in which they exist has not altered this basic drive. What is more, their isolation from Georgia has only made the separatist regions more dependent on Russia – for passports, pensions and energy supplies.

Opening up the conflict zones could break the inertia of isolation and with time allow for progress towards settlement. In the short term, in order to alter the logic at play in these conflicts, contacts should be established fully between the conflicting parties. Economic ties between Georgia proper and these regions should be strengthened. The separatist regions should be the targets of large-scale infrastructure rehabilitation and economic development programmes. Every attempt should be made to alleviate the poverty of these regions, to eliminate the grounds that allow criminality to flourish and to open new horizons for both regions in terms of their daily interaction with Tbilisi.

Again, it is important to reiterate that such a policy would not contradict the principle of Georgian sovereignty and territorial integrity. In fact, opening the separatist areas would help prepare the ground for serious talks on normalising relations and eventually achieving lasting conflict settlement.

To its credit, the Georgian government has recognised the need to open contacts. In 2005, Tbilisi presented a peace plan for settling the conflict with South Ossetia, which starts with measures to rehabilitate and develop the region. While positive, the logic driving Georgian policy should be questioned. Tbilisi remains driven by the idea that the South Ossetian conflict is 'easier' to solve than the conflict in Abkhazia, which can only be settled *after* South Ossetia. The logic is leaky. Why should Georgia leave Abkhazia to steep in its isolation, becoming ever more dependent on Russia, while it makes small steps towards South Ossetia? On the contrary, relations with both separatist regions should be opened up at the same time. Tbilisi should seize the initiative and declare that trade sanctions, blockades of various kinds, restrictions of contacts with Abkhazia and South Ossetia will be ended.

The EU is uniquely positioned to act as a framework for the opening of Abkhazia and South Ossetia. It is already deeply involved in both conflicts in this area and could act as a framework for opening the separatist areas more fully. Measures to be considered include:

- a) Support fully the Georgian government in its proposal towards South Ossetia and call on Tbilisi to adopt a similar approach simultaneously with Abkhazia. A high level political statement could be made by Tbilisi that the isolation of both separatist regions will be ended, and full relations restored. In parallel to its 2005 peace proposal to South Ossetia, Tbilisi could call for an end to the 1996 CIS sanctions regime against Abkhazia. The EU and the international community should back politically and materially the opening of the conflict zones.

- b) The EU should act as the framework organisation for Georgian and international support to the rehabilitation and economic development of the separatist regions and surrounding areas of Georgia proper. The focus of such efforts should be throughout the separatist regions and not only in restricted areas. The amounts dedicated for these purposes must be increased from current levels (7.5 million euros in South Ossetia and 4 million euros in Abkhazia).
- c) More attention should be given to supporting civil society activities in the separatist regions, and to the development of people-to-people contacts across the front lines. The separatist regions should be fully integrated into Georgia's educational space. The EU has mechanisms, such as the Decentralised mechanism and EIDHR, fitting for these purposes.
- d) Through the UN, the EU should push for the creation of temporary travel documents for the populations living in the separatist regions with no prejudice to their citizenship. This could offset their need for passports other than Georgian (mainly Russian).
- e) Concurrent with the opening process, the EU and other international actors should seek progress in cooperation between law enforcement agencies in Georgia proper and its separatist regions – through training, information sharing, telephone hot lines, and international rapid reaction teams on the ground.
- f) In the short term, the EU could support Georgian government plans to enact legislation on property restitution and compensation, without prejudice to the principled right for IDPs to return to their homes.
- g) The EU should raise its concerns with the activities of foreign groups and actors that violate the sovereignty and territorial integrity of Georgia. For one, foreign business groups active in the separatist regions should register with the relevant authorities in Tbilisi as part of the process of regularising overall economic relations. At the highest level, the EU should raise in the EU-Russia political dialogue its concerns with elements of Russian policy in the separatist areas.

The EU is already deeply engaged in rehabilitation and recovery activities in Georgia's conflicts. The terms for the EUSR in 2003 called on the Special Representative to help 'prepare the return to peace' including through recommendations for action related to civil society and rehabilitation of territories. The 2006 mandate is even more insistent on the EU seeking to create the conditions for progress towards settlement. What is more, the Commission has developed a strong rehabilitation profile in both South Ossetia and Abkhazia. So, the ground is well tilled for the EU to act as a framework for substantial and targeted assistance to open up these regions. These objectives could be built into the activities of the new EUSR and the ENP Action Plan.

The main novelty of the proposal here lies in its call for a political declaration at the highest level by Georgia and the international community that the isolation of the separatist regions will be ended and these areas will be opened to extensive support and assistance. The EU could help to frame the implementation of this declaration.

Ending the isolation of the separatist areas would help break the inertia they have fallen into over the last decade, where subsistence and poverty has fed off isolation to entrench their self-declared independence and the enemy image of 'Georgia.' Breaking down these barriers, supporting rehabilitation, alleviating poverty, opening new travel and educational opportunities – all of these could launch a more positive dynamic in these conflicts that could create the conditions for progress towards conflict settlement.