

The Association Agreement – New Conflict Resolution Mechanism Or Another Beautiful Cloth On The Same Body?

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Abstract

Recent novel internal and international developments in the region, not least the accelerated violence and Russian aggression, signing of the Association Agreements with the European Union as well as the so called “partnership agreements” between Russia and Georgia’s breakaway regions, have brought necessity to originally reevaluate the Union’s instruments in the conflicts in Georgia.

The paper will evaluate the Association Agreement in terms of conflict resolution in Georgia by answering the following questions: does the AA provide new instruments enabling Georgia to effectively implement confidence-building measures? Does it empower the existing mechanisms? How does it surpass the so called agreements between Russia and Georgia’s breakaway regions in terms of effectiveness and flexibility? Is it a step forward to the peaceful solution or another beautiful cloth on the same body? What are perspectives of the AA in this regard and what are challenges that still lie ahead?

Academically, this research will contribute to the practical and theoretical debates about the role of EU as an international actor in promoting conflict resolution in its Eastern neighborhood. From a policy perspective, the study will provide updated empirical findings on the EU mechanisms and instruments for the conflicts in Georgia. The research will be beneficial for country leaders, official practitioners, experts and NGO representatives in improving their working policies, thus contributing to the societal relevance of the research.

Apart from the content analysis, the essay will seek to answer the research questions by interviewing the governmental officials of Georgia, de-facto Abkhaz authorities, European diplomats and NGO representatives working on the conflict resolution processes.

Keywords: EU, conflict resolution, Georgia, Association Agreement, confidence-building measures.

Introduction

The Russian aggression against Georgia in 2008 produced a series of aggressions against the countries that now share the same fate of hostilities, occupation and unlawful annexation. Russia's current activities in the EU's Eastern neighborhood is a testimony to this statement. The lately intensified Russian push through hard and soft power means in the region undermines its security and stability, and aims at creating chaos in the wider region as well as obstructing the Western orientation and aspirations of the region's leading EU- and NATO-aligned countries.

Against this background, the West has been lukewarm and slow to recognize and award for the achievements of some of these countries (notable, Georgia) in the fields of democratization, institution-building, and defense and security reform. Nevertheless, we have witnessed several important changes on the EU integration journey, most importantly, the EU Association agreements with Georgia, Moldova and Ukraine, as well as the groundbreaking developments in internal politics of these countries. In turn, Russia signed the so called "partnership agreements" with Georgia's breakaway regions, annexed Ukraine's Crimean region and created another military/crisis hotspot in Eastern Ukraine. Recent conflict escalation and renewed casualties in the Nagorno-Karabakh region disputed between Azerbaijan and Armenia further inflamed the regional turmoil.

These novel internal and international developments in the region have brought necessity to originally reevaluate the Union's instruments in the conflicts. For the sake of simplicity and clarity, Georgia will be a topic of discussion in this paper. It is indeed Georgia where the EU has relatively stronger conflict resolution instruments and other mechanisms of influence, and is better represented on the ground and in international mediating discussions.

The paper will evaluate the AA (as the newest and arguably the most important document regulating the EU-Georgia relations) in terms of conflict resolution in Georgia by answering the following questions: does the AA provide new (direct or indirect) instruments enabling Georgia to implement confidence-building measures effectively? Or rather, does it empower the existing mechanisms? How does it surpass the so called agreements between Russia and Georgia's breakaway regions in terms of effectiveness and flexibility? Is it a step forward to the peaceful solution or another beautiful cloth on the same body? What are perspectives of the AA in this regard and what are challenges that still lie ahead?

Academically, this research will contribute to the debates about the role of EU as an international actor in promoting conflict resolution in its Eastern neighborhood. It will also provide value-added information to advance theoretical discussions. From a policy perspective, the study will provide essential findings on the EU policy towards the conflicts in Georgia. It will contribute to the better understanding of the Union conflict resolution mechanisms and instruments. The paper will be beneficial for country leaders, official practitioners, experts and representatives of non-governmental organizations in improving their working practices, thus contributing to the societal relevance of the research. Updated and original empirical information about the EU conflict resolution mechanisms in Georgia will be one of the main novelties and strengths of the study.

The goal of this research is to strengthen efforts and improve confidence-building policies and this way to contribute to peaceful conflict resolution by providing a critical analysis of the EU activities in this field to decision- and policy-makers.

In order to assess effectiveness of the EU policy and instruments, the indicators of success need to be formulated. Generally speaking, we may argue that there are two components of peaceful conflict resolution: 1) political-diplomatic aspect; 2) confidence-building aspect – after political-diplomatic success, the societies need to communicate with each other peacefully, without alienation and violence. This is a preparation of solid ground for ultimate peaceful resolution. Intensified confidence-building measures (CBMs) can in turn contribute to the political bargaining by pressurizing its participants. The Organization for Security and Cooperation in Europe (2012) suggests a broad and comprehensive definition of the confidence-building measures, being the “actions or processes undertaken in all phases of the conflict cycle and across the three dimensions of security in political, economic, environmental, social or cultural fields with the aim of increasing transparency and the level of trust and confidence between two or more conflicting parties to prevent inter-State and/or intra-State conflicts from emerging, or (re-) escalating and to pave the way for lasting conflict settlement” (p. 9). As Mason & Siegfried (2013) further clarify, confidence-building measures “can improve relationships, humanize the other, signal positive intentions and commitment, and avoid escalation. Through CBMs, mediators try to ‘humanize’ the conflict parties and to break down the image of an impeccable villain, usually incarnate beyond redemption” (p. 57).

For this particular study, the discussion will be based on assumption in theory that confidence-building measures contribute to peaceful conflict resolution (Mason & Siegfried, 2013). This is the postulation against which the AA and other related EU activities will be evaluated. Political-diplomatic aspect could be topic of future research.

Methodology

Apart from analyzing the AA, the paper will also look for gauging the opinions and perceptions of the policy- and decision-makers by interviewing the governmental officials of Georgia, local Abkhaz authorities, European diplomats and NGO representatives working on the conflict resolution processes. In particular, both full-fledged and brief face-to-face interviews have been held and questions have been asked during lectures in Tbilisi, Vienna, Brussels, Kiev, Ankara and Baku with the following persons and the representatives of the following bodies: Ministry of Foreign Affairs of Georgia; Office of the State Minister of Georgia for Reconciliation and Civic Equality; de-facto Ministry of Foreign Affairs of Abkhazia; Federal Ministry for Europe, Integration and Foreign Affairs of Austria; Ministry of Foreign Affairs, Foreign Trade and Development Cooperation of Kingdom of Belgium; Ministry of Foreign Affairs of Ukraine; Ministry of Justice of Ukraine; Government Office for European Integration of Ukraine; Ministry of Foreign Affairs of Azerbaijan; Ministry of Foreign Affairs of Moldova; Ministry of Foreign Affairs of Turkey; European Union Delegation to Azerbaijan; Permanent Representation of Austria to the European Union; European Commission; European Parliament; Mission of Austria to NATO; Organization for Security and Cooperation in Europe; United Nations; Chamber of Commerce of Austria; Russian Public Opinion Research Center – VCIOM; National Bank of Austria; political advisor to COM European Union Force; Ambassador Gregor Woschnagg, Permanent Representative of Austria to the European Union in 1999-2008; Ms. Karin Kneissl, Free-lance correspondent and author of “Der Energiepoker” and “Die Zersplitterte Welt”; civil society members of Georgia.

The above-mentioned lectures and most of the brief face-to-face interviews were part of and recorded during the following courses: a) “Executive Training Program ‘European and International Affairs’ for Junior Diplomats and Civil Service Officials from the Black Sea Region and South Caucasus” organized by the Diplomatic Academy of Vienna on August 10 – September 4, 2015 in Vienna, Brussels and the Hague; b)

“22nd International Junior Diplomats Training Program” organized by the Diplomacy Academy of the Ministry of Foreign Affairs of Turkey on April 9-30, 2016, having diplomats from 64 countries representing their respective Ministries of Foreign Affairs. Moreover, several interviews were also recorded during my research visits in Baku, Azerbaijan in April 2015 and Kiev, Ukraine in January 2016.

The study goes beyond the traditional de jure document analysis to approaching the question of effectiveness of the instruments introduced/strengthened by the AA in the sphere of conflict resolution. It does so by drawing on data collected using interviews with the policy- and decision-makers in Georgia and beyond. Indeed, the findings presented in this paper are based on their perceptions.

Literature Review

Over the last two decades, secessionism has been a problem in Georgia, destabilizing not only the country but having serious political repercussions and negative practical consequences in the South Caucasus and beyond (Cornell, Starr & Tsereteli, 2015). It was arguably with this mindset that the European Union has been involved in the conflict resolution processes (Boonstra & Delcour, 2015; Blockmans et al., 2010). But meaningful programs and instruments were introduced and/or strengthened only with the introduction of the European Neighborhood Policy (ENP) in 2004, later cemented by the Eastern Partnership initiative in 2009.

Association Agreement

The Association Agreement was signed in June 2014 and is often called as a “new generation” agreement because unlike previous documents, it contains a component of Deep and Comprehensive Free Trade Area (DCFTA) and envisages concrete and deeper mechanisms for Georgia’s relationship with the European Union. It is foreseen to be the main document regulating the EU-Georgian relations. For this reason, evaluation of the AA in terms of conflict resolution is essential.

Practical implications of the AA for confidence-building measures envisioned behind the lines of the document can potentially be significant. First, DCFTA can contribute to the increased business ties and cross-

ABL (Administrative Border Line) trade activities (as expected by the Georgian interviewees. See Mirimanova, 2015 for more information on ‘cross-border’ trade between Georgia and Abkhazian occupied region). Second, although not being a part of the AA but being the AA-related activity and politically supported by the AA, the visa liberalization and ultimately visa-free regime with the EU can also increase attractiveness of Georgia for the inhabitants of the occupied territories and this way further intensify the confidence-building process. Third, it is expected that the AA will make Georgia more attractive by firmly affiliating it to the European family. And fourth, in long-term perspective, by developing and modernizing Georgia’s economy and society, the AA will likely increase Georgia’s prosperity, making it more interesting to the occupied regions.

However, it is also expected that the following counter-productive developments will undermine these efforts and complicate the process of implementation of the confidence-building measures between the war-torn communities in Georgia.

Counter-productive developments

The so called “partnership agreements” between Russia and Georgia’s breakaway regions

In parallel with Georgia’s deepening European integration process, Russia has been distancing the occupied regions from the central government and further reducing the engagement opportunities, thus additionally minimizing potential effects of the EU instruments. One of such and the most recent activities has been the so called “agreements” between Russia and its occupation regimes in Sokhumi (on November 24, 2014) and in Tskhinvali (on March 18, 2015). The “treaties” envisage a qualitatively deeper level of integration and incorporation of the regions into the Russian military, economic, social and legal space. They constitute a factual annexation of the occupied regions (MFA Georgia, 2015).

Moreover, other alarming activities in the occupied territories and further deprivation of fundamental rights for the local population continue (i.e. restriction of freedom of movement, prohibition of education on native language, another wave of forceful “passportization”, illegal detentions and kidnapping, other discriminatory measures against ethnic Georgians, militarization process, etc.). In addition, as of May 15, 2016, most likely,

Russia will conduct a referendum in the occupied Tskhinvali region this year, factually preparing the ground for illegal annexation and making it extremely difficult to reintegrate the region to Georgia.

Process of “Borderization”

Another manifestation of Russia’s aggressive policy and in essence a counter-AA activity has been the so called “borderization” process, i.e. installing the barbed wire fences and other obstacles along the occupation line (European Commission & High Representative, 2015, p. 3). This way, Russia has been dropping iron curtain along the ABLs, minimizing people-to-people activities and thus further limiting the effectiveness and opportunities of new or existing EU conflict resolution instruments. One of the highly-publicized expansions of the installations was on July 10, 2015, when the Russian occupation forces placed the banners along the occupation line in Tsitelubani, Gori district and Orchosani, occupied Akhgori district, leaving a considerable segment of the Baku-Supra pipeline (approximately 1600m) under the control of the Russian occupation forces (President of CoE Parliamentary Assembly, 2015).

EU-related difficulties

Number of studies in recent years have demonstrated that several EU-related difficulties further hampered the process of effective implementation of confidence-building measures and conflict resolution in general, namely: first, divergent interests and positions of the EU member states on Eastern neighborhood and Russia considerably limited the EU’s potential (particularly Germany, France and Italy traditionally opting for Russia and being less active with the rest of the Eastern neighbors (at least until the Russian aggression against Ukraine), while Poland, Lithuania, Latvia, Estonia and others being skeptical and critical to Russia and more willing to strengthen cooperation with other Eastern neighbors) (Schmidt-Felzmann, 2008; Milczarek et al., 2013). Second, taking into account the complexity of the EU governance structure, working mechanisms and amount of actors with their own interests, ‘lack of coherence’ in the EU position became a common phenomenon and systematic obstacle (Thomas, 2011; Tocci, 2011), remarkably reducing EU’s potential in conflict resolution in its Eastern neighborhood. Third, the EU has used weak instruments and misused the strong ones that seriously undermined its influence on the conflict resolution (Popescu, 2011;

Whitman & Wolff, 2010; Akcakoca et al., 2009; Flenley, 2008; Makhashvili, 2013). The European Union has itself publicly recognized problems in its policy towards the neighboring countries and embarked on a difficult process of consultations in order to improve its effectiveness (European Commission, 2015). Fourth, vulnerability of the EU decision-making to the external influence seriously hampered the process of active and fast EU actions globally, including in its Eastern neighborhood. This has been apparent by my brief interviews and conversations in several EU and EaP capitals. For example, the diplomats in Brussels, Tbilisi and Vienna referred to several cases where third-party (non-EU, country-financed) lobby groups successfully hampered particular international projects as well as changed the wording of one of the documents expressing explicit support to the leading EaP countries. And fifth, these interviews also demonstrated that there has been no clear EU conflict resolution policy and understanding of its constituencies. This lack of clarity in the policy, or even a problem of non-policy, hampered everyday implementation process of confidence-building measures and restrained the EU participants from proactive efforts.

Findings

EU in confidence-building process

The interviewees explain that the AA expresses an overarching political support and strengthens the existing conflict resolution mechanisms rather than introduces a new tangible tool in itself. Indeed, there are long-experienced EU confidence-building activities beyond the AA that the interviewees exhibit. In this regard, the EU is the biggest donor of the projects implemented in and with the occupied regions. The funding covers a wide range of fields, including healthcare, education, agriculture, human rights, public awareness activities, summer schools, rehabilitations, etc.

The interviewee from the State Ministry of Georgia for Reconciliation and Civic Equality explains the EU funding activities in detail. In particular, as she clarifies, the European Union usually does its funding through a third party organization, be it the UN bodies (UNDP, UNICEF, UNHCR), the Council of Europe, international and local NGOs (Danish Refugee Council, Premier Urgence, Action Against Hunger, World Vision, Avangard, World Without Violence, Hello Trust), etc. It does so via several major ways, including: First, Confidence Building Early Response Mechanism (COBERM) is the most significant

mechanism. The EU finances go through the UNDP grant application process. I myself have participated in this kind of activity in Istanbul, Budapest and Vienna. This is especially important component of the confidence-building process because of intensified people-to-people contacts in a friendly atmosphere and establishment of friendly ties between the war-torn communities. Second, ENPI and later ENI – the ENI has four major dimensions of the EU financing, actually reflecting the AA. But because conflict resolution is not a separate dimension in the AA, financing for confidence-building measures is very limited. Third, European Commission sometimes grants money to international NGOs, such as International Alert, Conciliation Resources, and ICRC for the projects. However, obtaining the information on the procedures as well as the projects is very challenging. Fourth, the EU allocated €6 m. through ENPARD program for developing agriculture and €1 m. for civil society development in the occupied Abkhazia.

However, as general interview data indicates, the EU activities do not come without difficulties. As several interviewees from Georgia, Ukraine and Brussels underline, these difficulties have to be addressed in order to make the AA and the related EU instruments more successful.

Firstly, these activities usually lack sustainability. They are typically one-time events. Secondly, the interviewees indicate to a common problem that exists in the principle-agent relationship (Pollack, 2003), i.e. when ultimately principal's wishes sometimes do not exactly coincide with the agent's behavior. In other words, final "product" is sometimes deviated from the exact EU will. A widely publicized illustration is the project of the International Alert: the organization actually spent EU money in facilitating "pre-election process" in de-facto Abkhazia and increasing "electoral" capacity-building, evidently crossing the red-lines of official Tbilisi.

Thirdly, one of the most important aspects of the confidence-building process is a healthcare program. The central Government of Georgia provides free medical treatment, immunization and veterinary vaccines, medicines of diabetes and tuberculosis to the inhabitants of the occupied territories, as well as fully funds an HIV/AIDS center in Sokhumi. The EU facilitates the process by a status-neutral liaison mechanism, established in 2010 under the UN in the frameworks of the Engagement Strategy of Georgia and funded by the EU. It is a mechanism by which Georgia can physically bring all the medical aid to the occupied regions. It is also a communication channel for the central Government to get information on the necessities of the regions. Nevertheless, there have been some concerns from individual EU member states on its

“unnecessarily excessive expenses”, as one of the officials of Ministry of Foreign Affairs of Georgia explain, recalling the wording of this concern. However, by underlining its high humanitarian and political importance and wishing to win “hearts and minds” of communities of Abkhazia and Tskhinvali Region/South Ossetia, Georgian government has so far been successful in keeping this format actively functioning.

Potential difficulties of the AA

We have already mentioned four potential practical implications of the AA that could be important for confidence-building measures. However, the interviewees approach the arguments cautiously pointing at potential difficulties of the AA. First, there are two major problems in terms of the DCFTA – a) strictly legally speaking, it will not work on the occupied territories until effective control of central government of Georgia there. So the DCFTA will have no direct benefit for the inhabitants, unless there is an illicit trade on the ground; b) in order to get benefits, citizens of the breakaway regions will have to use official Georgian documentation for their business/trade activities that seems difficult in many cases for several reasons. For these grounds, not all the interviewees (both Georgian and non-Georgian) are optimistic about using the DCFTA as an instrument in the peace process. There have been speculations to ease the Law on the Occupied Regions (European Commission & High Representative, 2015, pp. 9-10) and to recognize certificates of origin from the territories for the reasons of trade facilitation and increased business and people-to-people contacts. But as Georgian interviewees from Ministry of Foreign Affairs and State Ministry for Reconciliation and Civil Equality argue, that would be a legalization of the occupation process and a step towards their recognition – i.e. red lines that will be hard for the central Government of Georgia to cross.

Second, visa-free regime will be a very important instrument not only because Georgian passports will become more attractive for those communities, contributing ultimately to the confidence building. But also because it will be a political demonstration that Georgia is indeed a close associate to Europe. However, as a factual counter-productive activity, Russia is trying to hinder the process by the so called “borderization”, another wave of “passportization” and the “agreements” that will further distance the regions away from the rest of Georgia and integrate them into Russian space. Interviewees’ (both Georgians and non-Georgians) perceptions on effectiveness of visa instrument are thus mixed. Several interviewees stay pessimistic, while others’ optimism is based on pragmatic interests of ordinary citizens of the occupied regions, believing that

they will use this opportunity for their own benefit. The latter often quote the Moldovan case where many thousands of Transnistrian citizens obtained Moldovan passports. In any case, visa's effectiveness remains to be seen in future.

Recommendations

The interviewees suggest several recommendations in order to improve the effectiveness of EU instruments in confidence-building process and to avoid mistakes that undermine the measures. First, EU should pay more focus on more sustainable projects. Second, EU should do more efforts and allocate more financing on projects having both war-torn communities more actively involved in it. Third, EU should have more control on the projects, more communication with and stronger monitoring mechanisms on the implementing organizations.

Fourth, the liaison mechanism is an important instrument for increasing trust and confidence. Hence, it should be maintained and its coverage should be extended to Tskhinvali Region/South Ossetia. Fifth, it is vitally important to have closer coordination and cooperation between the EU and Georgia in their activities. Sixth, the EU should avoid financing or otherwise facilitating the processes that can contribute to de-facto or de-jure legitimization of the breakaway regions, be it recognition of documents, making de-facto authorities as actors, increasing capacity-building, democratic society development, reforms, etc. These seemingly harmless and generous activities could lock the EU in recognition of the results and contribute to the state-building.

Seventh, EU policy should be clear and be pooled in a single public document, containing unambiguous frameworks and guidelines for its implementers and leaving no space for interpretations and speculations.

Eighth, the EU has to increase its presence in the region and its role as a mediator. De-facto Abkhaz authorities reckon that the EU is indeed an important actor in the region. They also recall the period when many high-level officials from individual EU member states used to visit de-facto Abkhazia bringing different plans for peaceful conflict resolution (although not acceptable ones). Thus, it would be productive to increase ties between Abkhazia, Tskhinvali Region/South Ossetia and rest of Georgia with the help and mediation of international actors, especially the European Union.

Ninth, and probably one of the most important recommendations that almost all interviewees advocate is to obtain unity of the EU member states in their ultimate positions and policies towards the region and Russia.

Conclusion

The study demonstrates that the AA exhibits an overarching political support for the existing instruments, introduces new mechanism of DCFTA, strengthens separate process of Visa-liberalization, and creates potential opportunities for establishing a solid ground for the conflict resolution. In other words, the AA is not an entirely new EU conflict resolution mechanism but it is not another beautiful cloth on the same body either.

However, its prospects and likely effectiveness is undermined by the so called “agreements”, the “borderization” and “passportization”, ambiguous EU conflict resolution policy and other EU-related difficulties. For these reasons, the ability of the AA and generally, the EU instruments to strengthen confidence-building measures and to play a ‘game-changing’ role in the conflict resolution still remains questionable.

Against this background, clear EU conflict resolution policy, closer coordination and cooperation within the EU and between the EU and Georgia on the matter, increased EU presence in the region, more efforts and financing on sustainable confidence-building projects and their stricter monitoring, more assertive mediation and more unity in the policies and activities towards the region and Russia could be essential for improving the prospects of the EU instruments in conflict resolution.

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