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The Usage of External Actors and Policy Conditionality in the European Neighborhood

Esther Ademmer

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YOU MAKE US DO WHAT WE WANT!

THE USAGE OF EXTERNAL ACTORS AND POLICY CONDITIONALITY IN THE EUROPEAN NEIGHBORHOOD

Esther Ademmer

Abstract

In academic and public debates, external actors have been considered to promote their rules most effectively in third countries in cases of high and asymmetric interdependence. Hence, high interdependence of European Neighborhood Countries (ENC) with Russia has been discussed as a major constraint to EU rule transfer. The case of migration policies, however, represents an odd one out: high degrees of interdependence of the ENC and Russia are coupled with compliance with EU rules, whereas lower degrees of interdependence correlate with shallow and selective compliance. The paper investigates the de facto impact of Russia and the EU on the implementation of the European Neighborhood Policy (ENP) in this highly interdependent policy field and argues for a change in perspective: adopting a stronger bottom-up perspective on power-based approaches of external governance cannot only account for varying compliance records, but also shows how domestic actors can use multiple external opportunity structures to promote their own agenda.

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Abbreviations

| | |
|--------|---|
| AENEAS | Programme for financial and technical assistance to third countries in the area of migration and asylum |
| AP | European Neighborhood Policy Action Plan |
| CIS | Commonwealth of Independent States |
| CNC | Caucasian Neighborhood Countries |
| DMR | Department of Migration and Refugees |
| DRC | Danish Refugee Council |
| ENC | European Neighborhood Countries |
| ENP | European Neighborhood Policy |
| ENPI | European Neighborhood and Partnership Instrument |
| ILO | International Labor Organization |
| IO | International (Governmental) Organization |
| IOM | International Organization for Migration |
| JLS | Subcommittee on Justice, Liberty and Security |
| NGO | Non-Governmental Organization |
| NIS | Newly Independent States |
| OSCE | Organization for Security and Cooperation in Europe |
| PCA | Partnership and Cooperation Agreement |
| SIGMA | Support for Improvement in Governance and Management |
| TACIS | Technical Assistance to the Commonwealth of Independent States |
| TAIEX | Technical Assistance and Information Exchange Instrument |

1. Introduction

Ever since the Tampere Council in 1999 and the creation of the borderless Schengen area, migration flows from outside the European Union and their regulation have figured prominently on the EU's security agenda. Concerns about illegal immigration, human trafficking and cross-border crime were newly sparked after the enlargement round of 2004, leading eventually to the creation of the European Neighborhood Policy (ENP). The ENP contains a form of institutionalized cooperation on migration issues with the new neighbors documented in bilateral ENP Action Plans (AP). Among others, the Caucasian Neighborhood Countries (CNC) agreed to adopt migration policies intended to strengthen the regulation and control of migration flows from their territories to the EU. As a reward for the reform process, the EU offered visa-facilitation and potential visa-liberalization in return.

Domestically, however, migration flows and their regulation in the Eastern Neighborhood Countries are linked, historically and contemporarily, to Russia rather than the EU. This is particularly true for the CNC that lived through a tradition of managed migration during Soviet times, enjoy visa-free travel in the Commonwealth of Independent States (CIS), count large numbers of labor migrants in Russia and depend on remittance flows from the northern neighbor.

Following recent research on the EU's external governance in the Eastern neighborhood and on leverage of alternative hegemons (Levitsky/Way 2006), the prospect of compliance with the ENP in the Southern Caucasus thus looks bleak. Interdependence with Russia has been discussed as a constraining factor for the effectiveness of EU rule transfer (Dimitrova/Dragneva 2009; Lavenex/Schimmelfennig 2009), which only added up to the general pessimism about the 'Europeanization' of the new neighborhood. It therefore comes as a surprise that we do see policy-specific compliance in the CNC (Ademmer/Börzel 2012), even in highly interdependent issue areas such as migration. Given this puzzling result, the paper asks whether and under which conditions interdependence with Russia indeed impacts EU-rule transfer to its Eastern neighborhood.

Based on two in-depth case studies in Georgia and Armenia, I argue that the impact of interdependence with Russia on compliance with EU-rules depends on two conditions: first, on the fit or misfit of an EU rule with the preferences of the targeted government and second, on the application of policy conditionality by external actors. The paper adopts a stronger bottom-up approach towards the study of rule-transfer under conditions of multiple interdependencies and finds that Russia can "hit" both ways. The alternative hegemon can function as a promoter of EU rules, as well as an obstacle for compliance depending on what best fits the incumbent CNC governments. The argument is developed as follows: the upcoming section introduces the puzzling case of compliance with EU migration policies in Georgia and Armenia and relates the empirical findings to recent theoretical discussions about external governance and interdependence in the European Neighborhood. Section three presents a bottom-up analytical approach that is employed for the case studies in section four. The latter traces the process of compliance with distinct ENP migration rules in Georgia and Armenia. The last section summarizes the findings of the analysis.

2. Pieces that Do Not Fit: Interdependence, Russia and ENP-Compliance

The ENP-implementation patterns of the CNC in the area of migration policies go against the overall skepticism that prevails towards ENP rule transfer in the region. Theoretically, the academic literature leads us to expect the lack of a membership perspective, power asymmetries disfavoring the EU and high interdependence with Russia to undermine compliance with EU rules. The following section introduces the puzzle of this paper by shortly outlining the major theoretical assumptions and setting them against the empirical findings on migration reform in the CNC.

2.1 *External Governance and the Bleak Prospect of Neighborhood Europeanization*

Theoretically, the prospect of the EU to exert its “transformative power” in its new neighborhood looks rather bleak. The ENP, established as a tool to deal with the new neighbors after 2004, was born out of a newly felt interdependence between the EU and its neighborhood countries (Lavenex 2004). Thus, most students of Europeanization processes have argued that the increasing degree of interdependence with the European Neighborhood Countries (ENC) concerning issues such as energy, migration or organized crime disfavors the EU’s bargaining power in the ENP implementation process. The latter is considered pivotal for a consistent and credible application of EU conditionality, which again is deemed necessary to induce domestic change (Schimmelfennig/Sedelmeier 2004: 674). Coupled with the lack of a membership perspective for the neighborhood countries – another cornerstone of successful rule transfer to the Central and Eastern European accession countries – skepticism prevails with regard to the effectiveness of EU governance in the ENC (Kelley 2006; Lavenex/Schimmelfennig 2009; Schimmelfennig 2009). Additionally, the CNC also display high degrees of misfit between their domestic status quo and the EU rules laid down in the bilaterally agreed ENP Action Plan.

The literature on external governance emerged to capture “the extension of internal rules and policies beyond membership” (Lavenex/Schimmelfennig 2009: 791). Conceptually, this strand of literature stresses domestic and institutional factors, such as state capacity, veto-players, rule codification or the EU’s mode of governance to explain diverse compliance outcomes. Yet, it also scrutinizes the explanatory power of interdependence between the ENC and other external actors. The latter are captured in the notion of “power-based” approaches. These approaches assume that in order to comply with EU rules the target state needs to be strongly dependent on the EU and, above all, more so than on other governance providers (Lavenex/Schimmelfennig 2009: 792). In this vein, high interdependence with Russia has been considered a constraining factor for the take-over of EU rules (Dimitrova/Dragneva 2009). Russia is expected to hamper the overall rapprochement of the CNC towards the Western hemisphere and undermine the effectiveness of EU rule transfer (Baev 2004; Browning/Joenniemi 2008; Bugajski 2010; Perovic 2005). These expectations resonate with the prevailing public opinion that countries in the Eastern Neighborhood are torn between the EU and Russia (Iarmoliuk 2011; Kucera 2011). Given the high interdependence of the CNC and Russia in issue areas of migration, energy and foreign and security policy, just to name a few, the processes of ENP rule adoption and implementation are likely to be highly limited.

Yet, in the case of migration policies, the compliance records of two CNC, namely Armenia and Georgia, do not meet the theoretical expectation. Despite high institutional, historical, social and economic interdependence with Russia, Armenia displays full or emerging compliance patterns with ENP migration rules. Georgia, however, that lacks the institutional interdependence with Russia, only shows patterns of shallow or selective compliance. In order to substantiate the puzzle, the following section presents the different degrees of interdependence between the two CNC, Russia and the EU and contrasts them with the countries' compliance patterns.

2.2 Interdependence, Regimes, and Compliance Patterns in the CNC

Interdependence in the area of migration varies significantly between the EU, Russia and the CNC. The EU has set up a dense institutional framework to deal with economic and social interdependence. Russia and the CNC, however, share high degrees of economic, social and historical interdependences, but different institutional ties within and beyond the Commonwealth of Independent States (CIS) and the Collective Security Treaty Organization (CSTO).

Migratory Interdependence and Regimes with the EU

In the framework of the ENP the EU has set up a dense institutional structure to cope with rising interdependencies after the last enlargement round in 2004. Yet, the ENP framework rests upon the contractual relationships established by the Partnership and Cooperation Agreements (PCA) that took effect in 1999. The parties to the PCA foresaw close cooperation on migration-related issues via political dialogue and the conclusion of bilateral readmission agreements. Furthermore, the PCA created Cooperation Councils for governmental and parliamentary cooperation and the Technical Assistance to the Commonwealth of Independent States (TACIS) functioned as the main assistance scheme to support reforms in the post-Soviet countries. The ENP strengthened and concretized the migration policy approach towards the CNC, replaced TACIS with the new European Neighborhood and Partnership Instrument (ENPI) as a new funding scheme and offered closer economic integration and visa facilitation as rewards for major reform steps. In 2009, the Eastern Partnership aimed again at deepening the relations. It substantiated the offer of rewards once more and suggested deep and comprehensive free trade agreements, potential visa-free travel and new Association Agreements to replace the PCAs as incentives for policy reform and implementation (Schäffer/Tolksdorf 2009: 1). The proposed policy reforms are laid down in bilateral ENP APs. In the field of migration policy, these are, among others, the development of a national migration action plan, the enhancement of document security and the signing of readmission agreements by the CNC (European Commission 2006a, 2006b).

In order to implement these policies, the EU relies on positive conditionality, assistance and socialization mirroring in principle the instruments of the EU enlargement process (Kelley 2006). The *conditionalities* for granting visa facilitation and visa liberalization have already been formulated prior to the Eastern

Partnership initiative. As agreed in the “Common Approach to visa-facilitation” of 2005, the Council of the EU links visa facilitation (which precedes visa-free travel) to the signing of an EC-readmission agreement (Boniface et al. 2008; Trauner/Kruse 2008:421). In addition, the Council of the European Union declared that

“The EC should take account of the following factors inter alia in deciding whether to open negotiations on visa facilitation with third countries: whether a readmission agreement is in place or under active negotiation; external relations objectives; implementation record of existing bilateral agreements and progress on related issues in the area of justice, freedom and security (e.g. border management, document security, migration and asylum, fight against terrorism, (...); and security concerns, migratory movements and the impact of the visa facilitation agreement.” (Council of the European Union 2005:3)

The prospect of visa facilitation was further substantiated towards the CNC with the Commission Communication on “Strengthening the ENP” in December 2006 and the prospect of Mobility Partnerships between the CNC and the EU, which were the result of the extension of the Global Approach on Migration to the Eastern Neighborhood (European Commission 2006a, 2007).

The unconditional provision of *assistance* is provided through the ENPI via thematic, national, regional and cross-border programs (European Commission 2006b). It comes in the form of technical assistance (TAIEX, Twinning, SIGMA) grants and loans (Neighborhood Investment Facility). The thematic program “migration and asylum” (former AENEAS), aims in particular at the reform of migration policies. The third instrument, *socialization*, “comprises all EU efforts to “teach” EU policies – as well as the ideas and norms behind them” (Schimmelfennig 2009: 8). This usually happens via political dialogue in the framework of the parliamentary and governmental Cooperation Councils that have been established by the PCA. The subcommittees on Justice, Liberty and Security (JLS) deal specifically with migration policies and coordinate the process of visa facilitation (European Commission 2010).

Despite the dense institutional ties, historical, social and economic interdependencies are less developed between the EU and the CNC. Historically, migration flows from the CNC to EU countries have resulted in rather large diasporas of Armenians in France and smaller ones of Georgians in Germany and Greece (Manaseryan 2004: 3; Jgamadze/Markarashvili 2009: 9). Yet, the diasporas within the EU do not create similar social and economic interdependencies as they do within Russia. To begin with, the number of Georgian and Armenian migrant workers in the EU is almost 20 times lower than in Russia (Popescu/Wilson 2009: 34), and remittances vary accordingly. Next to language and cultural borders, this development is above all due to the tight control of the EU’s external borders in the Schengen and other EU states (Popescu/Wilson 2009: 34). The prospect of eased migration to the EU is thus highly attractive, as the facilitation of travel of persons is supposed to be followed by the facilitation of trade in goods, i.e. a closer integration into the EU single market.

Migratory Interdependence and Regimes with Russia

The migration regime of Russia and the CNC is moderately institutionalized, but differs profoundly between Georgia and Armenia. This is mainly due to Georgia's opting out of the CIS in 2009. Interdependence with Russia in economic and social terms, however, is high in both CNCs.

The founding treaties of the CIS institutionalize cooperation on migration matters among CIS member states. Article seven refers to joint activities in the field of migration policies (Sakwa/Webber 1999) and the Bishkek Agreement of 1992 established visa-free travel between the CIS member states. However, the agreement was followed by diverse bilateral and multilateral agreements that no longer adhered to a unified CIS approach (International Centre for Migration Policy Development 2005: 27). The CIS visa-free regime applies to Armenia, whereas Russia unilaterally introduced visa requirements for Georgia in 2001 due to political tensions between the countries. Unlike Russia, Georgia has gradually eased its visa regime since 2005 and unilaterally lifted visa-requirements for specific countries including Russia (Van Selm 2005). Lately, also the Collective Security Treaty Organization started to work on fighting illegal migration and engaged in various operations of security forces within its member states towards this aim (Gorupai 2008; Marat/Murzakulova 2007).

Since the 1990s, the migration of CNC citizens to the northern neighbor has thus flourished given the prevailing societal and linguistic ties stemming from Soviet times (International Labour Organization 2008: 15). In addition, multi-ethnic families and relational ties to people residing in Russia stimulate migration flows. In a move to fight illegal migration and under conditions of increased "Caucasophobia" due to the protracted Chechen conflict, Russia tightened its immigration laws and procedures in the early 2000s (Tishkov et al. 2005: 23). Instead of halting the immigration process, the measures made illegal migration increase, even for migrants from CIS countries, who were still eligible for visa-free travel (Ivakhnyuk 2009: 41). Only recently, given its demographic situation, Russia started to increasingly seek immigration again.

Economic interdependence with Russia cannot be overestimated considering the demand for cheap work force and the economic effect of migration on the home societies. Remittance flows from the migrants to their countries of origin significantly contribute to the CNC's GDP and function as social stabilizers in situations of economic stress (Bertelsmann Transformation Index 2007: 17; Tishkov et al. 2005: 29). The estimation of remittance flows and their share of the GDP differ across sources and given the large amounts of illegal migration, reliable data are hard to generate. Yet, estimations of the percentage that remittances contribute to the GDP of each CNC largely amount to at least 10 percent (Tishkov et al. 2005: 28). Following World Bank estimates, remittances from Russia to Georgia amounted to 491 million US dollars in 2010, while Armenia received 436 million US dollars, which constituted approximately four to five percent of the countries GDPs in 2010 (World Bank 2010). As a result, the contribution of remittance flows, particularly from Russia, to both Armenia's and Georgia's GDP can be considered substantial (Minasyan et al. 2007: 31; The Economist Intelligence Unit 2007: 27).

Yet, interdependence between Georgia and Russia is lower in institutional terms and Georgia has little prospect of visa liberalization with Russia. On the other hand, Armenia would still be hit hard by the introduction of a visa regime with its northern ally. Following the argument of power-based explanations,

compliance with EU norms would, if at all, be more likely to occur in Georgia than in Armenia. Overall, however, Armenia shows a positive compliance pattern with ENP rules, whereas Georgia lags behind and has only recently managed to catch up selectively.

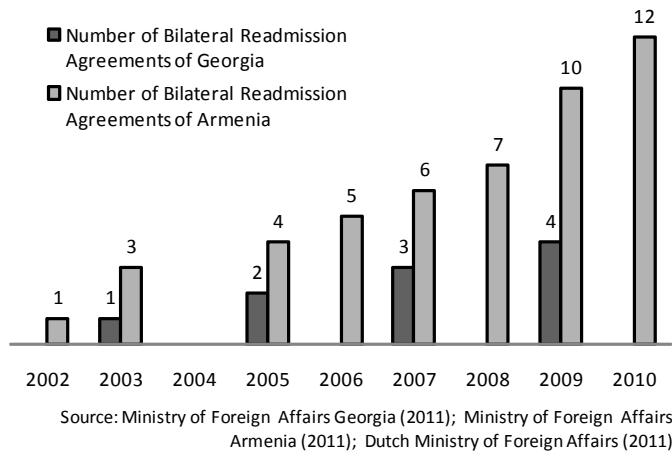
Compliance Patterns in Georgia and Armenia

Compliance, rule adoption and its application or implementation have so far been used as interchangeable terms, even though they refer to different stages of the policy cycle. The distinction between policy adoption and implementation that is made by the external governance literature (Lavenex/Schimmelfennig 2009: 800f) is helpful to distinguish different degrees of compliance. While policy adoption usually relates to output compliance that captures the passage of administrative measures making the application of the rule possible (Easton 1957), implementation refers to outcome compliance, comprising the de facto application of a rule. In order to define and conceptualize compliance patterns, I will refer to full compliance in cases in which both policy adoption and implementation occur. Emerging compliance captures the term of full policy adoption and increasing degrees of its application. Shallow compliance defines selective policy adoption without implementation, while inertia names the cases where both are missing.

Concerning ENP migration rules, Armenia shows a constant pattern of emerging and full compliance, despite a high degree of interdependence with Russia. Armenia has approved a Concept Paper of migration regulation and a national action plan in the framework of an inter-ministerial working group (Grigoryan 2011; Migration Agency of the RA Ministry of Territorial Administration 2010). Similarly, the country complies with the technical introduction of biometric passports (PanArmenian.net 2011) and has negotiated and implemented bilateral readmission agreements with a large number of EU and non-EU countries since 2003.

Georgia displays patterns of inertia until late 2009 and complies only selectively with the migration-related ENP-rules under scrutiny in this paper, even though it lacks high degrees of institutional interdependence with Russia. With regard to readmission agreements, Georgia made little efforts to sign a similarly dense web of bilateral agreements with EU or Schengen states as Armenia (see *Figure 1*).

Figure 1: Number of Readmission Agreements with EU-MS or Members to the Schengen Agreement



In addition, a national action plan has been drafted with the help of the International Organization for Migration (IOM) in 2008 but has never been passed by the government. The European Commission bluntly expressed its dissatisfaction with the Georgian migration policy in its progress report of 2008 criticizing the lack of a written policy document and the “extremely liberal nature” of the unwritten migration policy (European Commission 2008: 8). The inertia that marked compliance patterns in Georgia has changed only recently. Georgia has started to display patterns of selective compliance since late 2009. The overall EC readmission agreement was signed in 2010 and took effect in 2011 (Civil Georgia 2011; RAPID 2010) and biometric passports have been issued since 2011 (Ministry of Justice of Georgia 2010b). Yet, so far no national action plan of migration has been passed.

The correlation of compliance and interdependence with Russia is thus puzzling. The different degrees of interdependence with Russia cannot fully account for the compliance patterns in the case of migration policies. In order to shed more light on the conditions under which interdependence with Russia matters, the following section introduces a bottom-up perspective on the study of EU rule transfer on conditions of multiple interdependencies that is subsequently applied to the cases of Armenia and Georgia.

3. The Missing Link: Interdependence is What You Make of It

It is the nature of interdependence and power-based approaches not to open the black box of the state and “go domestic”. Yet, in the case of ENP rule transfer under conditions of more than one external actor involved, interdependence and power are likely to be significantly filtered through domestic perceptions and preferences of domestic governments. The following section thus suggests the introduction of two additional factors into the analysis of rule transfer processes under conditions of multiple interdependencies: the preferential fit of the agenda of domestic governments with the ENP and policy conditionality provided by external actors.

The literature on Europeanization and domestic structure approaches of external governance have strongly pointed to institutional path dependencies and misfit as determinants of the Europeanization process (Knill/Lehmkuhl 2000: 24; Lavenex/Schimmelfennig 2009: 805). In member and accession states, a policy, polity or politics misfit has been identified to create windows of opportunity for veto players and norm entrepreneurs, which may then potentially lobby for change and Europeanization (Risse/Börzel 2000). In the case of the CNC, though, the governments are usually equipped with far-reaching powers, civil society is weak and veto points are rare. The misfit argument is therefore mainly used to express skepticism about the effectiveness of EU democracy promotion, because autocratic leaders are expected not to cut their own powers (Schimmelfennig 2009: 16f). Yet, with regard to soft security policies, such as migration rules, the governments are not necessarily status-quo oriented and cost-averse. They might also hold positive preferences for EU policies that strengthen their governmental capacities or support the implementation of previously held agendas. Positive preferences of governments towards EU rules are captured by the notion of preferential fit (Ademmer/Börzel 2012). It is defined as a fit of preferences over outcomes, which are, unlike preferences over strategies, exogenous to the state's interaction with external actors in the first place (Frieden 1999). These preferences can be deduced from the intrinsic motivation of an incumbent government to stay in power and to implement salient issues of its domestic agenda to please its constituencies.

In this vein, the EU is likely to have an impact in the CNC, regardless of the status quo, if the EU policy supports the political agenda of the domestic (potentially autocratic) government and provides it with benefits, legitimacy or capacity. The same is true for Russia: If Russia's foreign policy provides additional or alternative capacities for the realization of an incumbent's preference, the targeted state is likely to make use of it. This process of "usage" has been identified as crucial to patterns of Europeanization in Member States as well as in the Central European Accession Countries (Brusis 2005; Jacquot/Woll 2003; Mendez et al. 2006; Woll/Jacquot 2010). Neighborhood countries that are targeted by multiple external actors are even more likely not only to give in to externally promoted pressure but to refer to an opportunistic "à la carte approach" (Popescu/ Wilson 2009) picking and choosing externally promoted rules to cater for their domestic constituencies.

Yet, notions of asymmetrical interdependence have been identified in the external policy of the EU (Lavenex 2008), as the EU links conditions to the 'carrots' of market access, visa facilitation or liberalization (Trauner/Kruse 2008b). Russia has also frequently been named and blamed for pressuring countries in its 'Near Abroad' by blackmailing them to comply with the Russian foreign policy agenda (Hedenskog/Larsson 2007; Perovic 2005). While we can expect an actor to pick and choose external policies which come with unconditional opportunity structures, such as assistance, this might not be the case for externally promoted rules, which the external actor links to other salient incentives or issue areas.

For unconditional opportunity structures, full compliance with an EU policy is expected in cases of preferential fit with an EU rule, as actors are likely to use EU assistance and neglect Russia's assistance, if the latter does not support the EU policy that fits the incumbent (rivaling assistance). Emerging instead of full compliance might still occur if the capacity building provided by a single actor does not suffice to pay off implementation costs. Incumbent governments are likely to profit from both the EU's and Russia's

assistance if they help to implement its previously held agenda (concerted assistance). Inertia, however, is expected in cases of preferential misfit, as the domestic actors are free to neglect the external opportunity structure which does not correspond to their agenda. The hypotheses are summed up in *Table 1*.

Table 1: Assistance and Expected Compliance Patterns

| Assistance | Concerted Assistance | Rivaling Assistance |
|---------------------|----------------------|--------------------------|
| Fit with EU-rule | Full Compliance | Full/Emerging Compliance |
| Misfit with EU-rule | Inertia | Inertia |

If policy transfer is linked to policy conditionality, in form of the provision (positive conditionality) or the neglect (negative conditionality) of salient opportunity structures, it is still likely that we see policy transfer that is at odds with the preferences of the domestic government. Policy conditionality does not necessarily change the underlying preference of a government over outcomes, but rather changes its strategies towards achieving this goal (Frieden 1999). We may thus see a change in the CNC agenda, while the de facto application of a rule does not occur (shallow compliance). However, in cases in which both external actors apply policy conditionality, this conditionality might either double in cases were both countries promote the same rule (concerted policy conditionality) or provide alternatives to a target state to elude from the requirements of an external actor (rivaling policy conditionality). Under conditions of multiple interdependence actors are likely to pick and choose the conditionality that best fits their domestic needs. While they can hardly elude from concerted conditionality, they are likely to do so in cases of rivaling conditionality, complying with the rules that correlate best with their domestic agenda, which is what Schimmelfennig and Sedelmeier (2004) coin “cross-conditionality” (see *Table 2*). As rivaling conditionality might also render the initial implementation of EU rules more expensive, emerging compliance instead of full compliance can be expected.

Table 2: Conditionality and Expected Compliance Patterns

| Conditionality | Concerted Conditionality | Rivaling Conditionality |
|---------------------|------------------------------|--------------------------|
| Fit with EU-rule | Full Compliance | Full/Emerging Compliance |
| Misfit with EU-rule | Shallow/Selective Compliance | Inertia |

Cross-socialization and cross-conditionality processes, which have already been discussed in the literature (Schimmelfennig/Sedelmeier 2004: 674) are thus not necessarily the result of an asymmetric structural interdependence to a non-EU external actor. Without neglecting the validity of the overall argument that rivaling opportunity structures offered by non-EU actors might constrain EU rule transfer, it faces two empirical and analytical problems in the European Neighborhood. First, these approaches rely on norm divergence, which is hard to establish for actors other than the EU or the US that do not have a clear, publicly available script of specific norm promotion as it is codified in the ENP Action Plans. Second, the approach considers cross-conditionality to take effect, once the benefits promoted by a non-EU third actor exceed the ones provided by the EU. The evaluation of incentives for domestic actors, however, strongly depends

on their domestic constituencies and political agendas that maintain the incumbent's power base. They can thus not be derived of comparing incentive structures only. Even under conditions of EU-Russian norm divergence and the provision of alternative incentive structures, the CNC might still choose EU rule adoption, if the EU-promoted rule is an issue of salience for the incumbent regime and can be used for its own domestic purposes. Hence, the argument put forward here does not promote an entirely new approach, but rather a change in perspectives towards a stronger analytical focus on domestic power constellations for determining the explanatory value of power-based approaches to external governance.

In the approach developed here, the impact of interdependence with Russia on EU-policy transfer is thus likely to be filtered by two layers: the preferential fit of the governmental agenda, which might lead to instances of usage in the rule adoption or implementation process and the application of policy conditionality by external actors. The extent to which the two factors can account for policy variation in the case of Georgia and Armenia is analyzed in the next section.

4. Comparing Compliance Processes in the Southern Caucasus

The case of migration policy reform in the South Caucasian countries of Georgia and Armenia is selected for comparison due to the countries' overall geographic and historical characteristics and their interdependence with Russia and the EU in migration issues. In addition, they are comparable with regard to the policy misfit in the policies under scrutiny in this paper. Both Georgia and Armenia lacked national action plans on migration and asylum and biometric passports prior to the initiation of the ENP (European Commission 2005a, 2005b). They also fell short of bilateral or EC wide readmission regimes, which were demanded in the PCAs and ENP Action Plans (European Union 1999a). In addition, both countries are ranked as partly free by the Freedom House Index in 2006 with executives that enjoy far-reaching powers and an opposition which fails to provide for political alternatives (Freedom House 2006a; 2006b). They also display comparable levels of state capacity (Bertelsmann Transformation Index 2006)¹ and are subject to the same modes of governance employed by the EU in the framework of the ENP. In addition, the legalization and codification of the promoted EU rules in the ENP Action Plan is comparable, given that the policies chosen resemble one another in the Action Plans of Georgia and Armenia (European Commission 2006c, 2006d). Yet, both countries' elites have different governmental preferences that shape their domestic and foreign policy behavior and hold different relationships to Russia, which is likely to lead to differences in the provision of incentive structures.

Starting from the puzzling compliance output, the empirical analysis tries to trace back the processes that lead to positive compliance patterns in the case of migration policy in Armenia. It sheds light on the obstacles that caused inertia in the Georgian context prior to 2009 and which made the country display selective compliance patterns afterwards. The comparison focuses on the preferential fit of the two CNC and their interplay with the incentives structures stemming from both the EU and Russia. Policy conditionality

¹ Armenia scores comparatively better in the stateness index, which is however due to Georgia's lack of monopoly of force in the de facto republics. This still allows for a comparison of the countries with regard to the state capacity of the central government to pass reforms for the territories they control.

is defined as the conditional offer of policy-specific, non-membership incentives in return for reform initiatives and shall be measured in actions and speech acts by external actors. Preferential (mis)fit is measured in the convergence of preferences over outcomes of the EU and domestic actors according to whether the application of the EU-promoted rule supports (fit) or undermines (misfit) the incumbent's power base, which is presented prior to each analysis. The empirical analysis builds on secondary literature, reports of governments, international organizations (IO) and non-governmental organizations (NGO), media outlets and approximately 40 interviews that were conducted during research trips in Armenia and Georgia.

4.1 *From Emerging to Full Compliance: Migration Policies in Armenia*

In Armenia, migration policies have gained particular salience since the end of the 1990s under the then President Robert Kocharian and his nationalist coalition. Being considered a “curse” for the country, the halting of emigration has mobilized the government and the opposition alike. At the same time, outward migration and remittance inflows stabilize the domestic political situation, by securing a base of income for an impoverished larger part of the population that does not profit from the double-digit growth of Armenia’s economy. Against this backdrop, passive and active opportunity structures stemming from both the EU and Russia provided Armenia with additional resources for the implementation of policies which helped both to satisfy a rather nationalist agenda on migration regulation, while at the same time easing the economic and political stress through facilitated legal migration.

Government Preferences in Armenia

Both the first President of independent Armenia, Levon Ter-Petrossian, as well as his successors gained and lost their legitimacy over notions of Armenian nationalism relating to the conflict with Azerbaijan over Nagorno-Karabakh - the Armenian enclave within Azerbaijan’s international borders - and the conflict with Turkey over the recognition of the Armenian genocide of 1915. While Ter-Petrossian had led the ‘Karabakh movement’ as a national revolution against the Soviet regime, he was ousted over his pragmatic rapprochement to Turkey and Azerbaijan. Robert Kocharian successfully challenged Ter-Petrossian enjoying the support of large parts of the Armenian diaspora and nationalist Armenian parties that rallied behind a more traditionalist national program (Hofmann 2009; Mayer 2007).

Kocharian, as well as his preferred successor Serge Sargsyan, who took office in 2008, have mostly relied on the political support of the Republican Party, the nationalist party Armenian Revolutionary Federation-Dashnaksutyun (ARF-D) and veteran diaspora-based organizations such as the Ramkavar-Azatakan and Orinats Erkir (Freire/Simao 2007). In addition, Kocharian’s and Sargsyan’s power increasingly rested on the cooptation of oligarchic economic elites that also resumed parliamentary power via the newly founded party “Prosperous Armenia” after elections in 2007 (Bertelsmann Transformation Index 2010). In return for securing their preferential access to certain segments of the economy, the Armenian oligarchs sidelined

with the president, financed the presidential election campaigns and reportedly helped to oust regime opponents (Danielyan 2006).

Both the Kocharian and the Sargsyan administrations declared migration an issue of particular salience, which reflected historical nationalist traditions as well as a generally negative perception of out-migration. Halting emigration and returning the Armenian diaspora to its native country strongly corresponded to the Armenian tradition of *hay dat and Araratism*², which the nationalist opposition had endorsed to oust Ter-Petrossian (Hofmann 2009). The negative perception of emigration from Armenia was shared by the larger population, most likely due to the historical experience of massive flight and forced expulsions in the course of the century-long struggle over the Armenian Highland (Savvidis 2011, 218). In 1999, the Kocharian government established the Department of Migration and Refugees (DMR) due to the emigration situation in the late 1990s caused by large numbers of refugees stemming from the war with Azerbaijan and the devastating earthquake (UNDP 2001). From 1990 to 2000, around 900,000 Armenians emigrated from Armenia, which constitutes around one third of the current Armenian population (Poghosyan 2011: 42). Migration was subsequently framed as an issue of primary importance to the country, which was reflected in governmental programs and debates in major election races (Government of Armenia 2000; Kocharian 2003). Emigration also remained an issue of salience under the new president Serge Sargsyan, whose Republican Party had made the “return Armenians from all over the world to their Native country” (Republican Party of Armenia 2011) a major goal. Migration was declared a “major concern of the government” in 2008 and a “demographic threat [...] to national security” (Government of Armenia 2007, 2008b). Migration was also intrinsically linked to the conflict with Azerbaijan, which the latter hoped to solve by Armenia’s demographic decline.

The Diverse Use of External Opportunity Structures – Complying with the ENP

The Armenian government used both the EU’s and to a lesser extent Russia’s assistance to implement and justify their own policies directed at halting and regulating migration flows from Armenia, as well as facilitating the legal mobility for persons to ease socio-political stress and hence the potential for political turmoil.

First, the Migration Service together with the Ministry of Foreign Affairs promoted the conclusion of *bilateral readmission agreements*. Bilateral readmission agreements formalized the return of Armenian and third country nationals that were illegally residing abroad and had entered their country of destination via Armenia. Armenia intensively engaged in the formalization of bilateral readmission with the EU and other partners even before the prospect of visa facilitation was explicitly granted with the *Strengthening of the ENP* in 2007 (Boniface et al. 2008: 4). Currently, Armenia has signed 12 bilateral readmission agreements with EU member states and Schengen associates, which puts it in top of all CIS countries and Georgia.³

2 “As with Zionism, it [Araratism] emanates from the necessity of bringing home the worldwide diaspora, which requires reconquering and uniting all areas of settlement, both current and historical” (Hofmann 2009).

3 Armenia has signed readmission agreements with Latvia (2002), Lithuania (2003), Denmark (2003), Switzerland (2005), Germany (2006), Bulgaria (2007), Sweden (2008), Belgium (2009), Netherlands (2009), Luxembourg (2009), Czech Republic (2010) and Norway (2010)(Dutch Ministry of Foreign Affairs 2011; Ministry of Foreign Affairs of the Republic of Armenia 2011).

The conclusion of bilateral readmission agreements was compatible with the broader policy of returning ethnic Armenians to their home country, which corresponded to the nationalist agenda of the dominant Republican Party (Republican Party of Armenia 2011) as well as the ARF-D and it picked up the principle of the “national program” to return ethnic migrants to their home country (Hofmann 2009). As readmission agreements were usually linked to reintegration assistance from the countries of destination, the Migration Agency of the Republic of Armenia (former DMR) considered the conclusion of readmission agreements a major opportunity for financing reintegration programs, while at the same time showing its readiness to European partners to also cooperate on sensitive issues.⁴ Internally, the Migration Agency promoted the conclusion of readmission agreements in 2003 as the institutionalization of the right to return for Armenian citizens, a right stipulated in the Armenian constitution.⁵ Reintegration assistance was considered a major asset by the government authorities and deputies of the ruling coalition in the Armenian National Assembly to “solve reintegration issues”⁶ and implement policies of information of potential migrants, prevention of second migration, and reintegration measures.⁷

In order to implement readmission agreements and the reintegration of returned Armenians, the Armenian government actively used the financial and technical assistance of both the EU and Russia. The Ministry of Diaspora asked for a TAIEX project in 2010 to set up a law on repatriation in line with the EU migration acquis (European Commission 2011a). The implementation of readmission agreements was also supported by the EU’s thematic program on migration and asylum in 2009 with an EC contribution of approximately 700,000 Euros (Armenian UN Association 2009). Apart from the EU, the Armenian authorities also resorted to the help of Russia to readmit and reintegrate returned Armenians. Armenia and Russia signed a bilateral readmission agreement and an executive protocol on its implementation in 2010 (President of the Republic of Armenia 2010). The Police of the Republic of Armenia implemented an awareness-raising campaign in 2005 and 2006 that was jointly developed with the embassy of the Russian Federation in Armenia and the Russian Federal Service for Migration. It aimed at informing Armenian citizens about the migration situation in Russia (Zanfrini et al. 2008: 28f), to supposedly diminish migration flows from Armenia and fight illegal migration. A clear EU policy conditionality linked to visa facilitation, which was only brought up in late 2006, was thus not needed to make the Armenian government comply with the request to sign readmission agreements, as this policy fitted their own domestic preference.

The same developments are noticeable with regard to the introduction of biometric passports in Armenia, which mainly served an agency closely affiliated to the president, the Armenian Police, to implement a policy preference that it has held since 2004. The capacity building provided by the EU and other external donors equipped the police with the possibility to realize its pre-existing agenda. The visa and passport department of the Armenian police easily absorbed the request of the EU to implement the biometric

4 Interview with an official of the State Migration Service of the Republic of Armenia (RA) in Yerevan, Armenia, October 2010.

5 Interview with a representative of the State Migration Service of RA in Yerevan, Armenia, October 2010.

6 Interview with a Member of the National Assembly of RA (‘Prosperous Armenia’) in Yerevan, Armenia, October 2010.

7 Interview with an official of the State Migration Service of RA in Yerevan, Armenia, October 2010; Interview with a Member of the National Assembly of RA (‘Prosperous Armenia’) in Yerevan, October 2010.

passport and is to start issuing them in early 2012, following a presidential decree of 2008 (Government of the Republic of Armenia: 2008).⁸ The reform corresponded to ongoing policy developments in the country, given that Armenia had already started to work on the enhancement of document security in 2006.⁹ The progress report of the EC acknowledges that Armenia managed to introduce improved security standards in its passports in 2007 (European Commission 2008a: 12), and a civil servant of the European Commission underlined that those documents would have already sufficed to allow for visa facilitation, though not visa liberalization with the EU.¹⁰ The idea to introduce biometric identifiers, however, was brought to Armenia in 2004 via a civil servant of the Ministry of Foreign Affairs, who participated in an OSCE conference, where he learned about the advantages and disadvantages of biometric identifiers.¹¹ He successfully lobbied the passport and visa department of the Armenian police for their introduction¹² that consequently applied for a TAIEX project to exchange views with European Member States on their experience with biometric identifiers in 2007 (PAO Armenia 2007). The large part of capacity-building measures to implement the project was still stemming from a joint project of the IOM and the OSCE including training, consultation and policy advice (International Organization for Migration 2010). Capacity building in the form of financial support to pay for equipment supply was not granted to Armenia, unlike in Georgia. The delay of passport introduction from 2011 to early 2012 was thus primarily linked to a lack of capacity within the Armenian police and lengthy negotiation processes about the terms and conditions of supplying the equipment with the relevant companies (News.am 2011).

The overall implementation of ENP requirements was also significantly facilitated by the strong convergence between the agenda of the State Migration Service and the ENP Action Plan. With regard to the establishment of a national action plan on migration, the State Migration Service actively sought the support of the EU and soon became the main beneficiary institution for EU capacity-building measures in the field. It applied for TAIEX projects to create a national action plan for migration in 2008 and 2010 (European Commission 2011a; , 2011b), and recently applied for Twinning assistance that, among other issues, intends to further assist the implementation of the national action plan (European Commission 2011b).¹³ Behind the scenes, however, there was a major conflict erupting between the police and the Migration Agency about the coordinating function on migration issues.¹⁴ The police, with close ties to the presidential apparatus and its security-related agenda, was significantly strengthened after the clashes of Armenian security forces and protestors after the presidential elections in 2008. A presidential decree was passed that concentrated every migration-related activity within the police, rendering migration an issue of criminal

8 Interview with an official of the Ministry of Economy of the RA in Yerevan, Armenia, October 2010.

9 Interview with an official of the Passport and Visa department of the Police of RA in Yerevan, Armenia, October 2010.

10 Interview with an official of the European Commission, DG Home Affairs, Brussels, August 2011.

11 Interview with an official of the Consular Department/ Ministry of Foreign Affairs of RA in Yerevan, Armenia, October 2010.

12 Interview with an official of Consular Department of the Ministry of Foreign Affairs of RA in Yerevan, Armenia, October 2010.

13 Interview with an official of the State Migration Service of RA in Yerevan, Armenia, 10/2010.

14 Interview with an official of the Consular Department/ Ministry of Foreign Affairs of RA in Yerevan, Armenia, 10/2010.

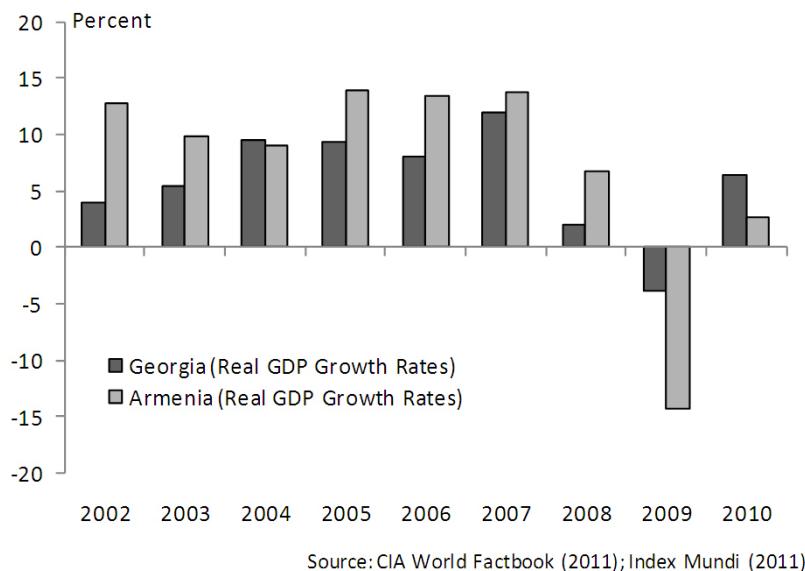
concern, rather than a matter to be dealt with by a purely civilian authority.¹⁵ Thus, while the Migration Agency actively sought the support of the EU, it was unable to channel this into policy output. It was only after some governmental reshuffling and criticism of external donors, such as the UN Refugee Agency UNHCR, that the Armenian migration institution was again upgraded to hold the status of a State Migration Service (Hovhannesian 2011: 10).¹⁶ As a result of the work of the State Migration Service, a concept paper on migration was passed in 2010 and a National Action Plan was prepared in the framework of a working group that comprises the most relevant governmental actors in the field of migration (Migration Agency of the RA Ministry of Territorial Administration 2010). The efforts that the government had made towards the strategic planning of migration policies also served the authorities to subvert migration-related criticism by the opposition. When migration flows peaked in the beginning of 2011 and the opposition alleged the state not to tackle the problem of migration, the authorities frequently referred to the National Action Plan on migration to prove the opposite (Armenian News 2011; PanArmenian.net 2011b).

Despite the highly nationalist agenda and the emphasis of governmental and presidential programs to halt migration, Armenia was hoping to quickly start negotiations on visa facilitation with the EU (Epress.am 2010a). While the EU still fell short of providing the necessary negotiation mandate to the Commission, Russia was already facilitating immigration for Armenians, beyond the visa-free travel that prevailed in the CIS. In 2009, Russia's 'Compatriots program' provided legal work opportunities for Armenians wishing to migrate to Russia. The 'Compatriots program' figured prominently on the agenda of the opposition forces in Armenia, condemning them as proofs that the State was indeed promoting migration from Armenia (Armtown 2011; Epress.am 2010b, 2011a, 2011b). Following the fierce criticism of the opposition in 2011, the government declared that it shared the concern and agreed to discuss the issue with the Russian authorities (Mediamax 2011). The reluctance to do so prior to 2011, as well as other statements by governmental officials and economic indicators, however, suggest that the program also benefitted the Armenian authorities in times of socio-economic strain within the country. This can be understood against the fact that the double-digit growth that Armenia's authorities had relied on, vanished in the course of the financial crisis. As the following data indicates, Armenia was hit significantly worse by the economic downturn in 2009 than Georgia (*see Figure 2*).

¹⁵ Interview with an official of the State Migration Service of RA in Yerevan, Armenia, October 2010.

¹⁶ Interview with an official of the State Migration Service of RA in Yerevan, Armenia, October 2010.

Figure 2: Real GDP Growth Rates



Source: CIA World Factbook (2011); Index Mundi (2011)

Likewise, remittances payments significantly decreased in 2009 (World Bank 2011), as the global economic crisis also reduced work opportunities for Armenians abroad. While high growth rates had particularly served the small and wealthy elite in Armenia and thus secured the incumbents power structure, around 70 percent of the Armenian population had relied on remittances to escape poverty prior to the financial crisis (Bertelsmann Transformation Index 2008; International Labour Organization 2008; Tishkov et al. 2005). The decrease in remittance payments in 2009 hence affected the economic and social situation of the country. The ‘Compatriots program’, for which Armenians increasingly applied as a means to escape poverty after 2009, was considered to ease the economic and social stress for the Armenian authorities (Grigoryan 2011). Statements of government officials also suggest that it helped to alleviate the political tensions for the incumbent elite. Prime Minister Tigran Sargsyan publicly rejected criticism that the government failed to stop migration, asking: “What can we do, we should do everything so these people won’t flee, so that critical mass remains here and a revolution happens?” (Epress.am 2011b).

To sum up, assistance provided by the EU and Russia for readmitting and raising the awareness of migrants helped the Armenians to implement their agenda of sustainably returning ethnic Armenians, while the work on the National Action Plan on migration helped to subvert criticism from the opposition about the encouragement of migration. At the same time, the response of the Armenian authorities to the Russian ‘Compatriots Program’ suggests that it served the incumbents to alleviate the economic and political stress in the light of rising levels of poverty, particularly after the financial crisis. Thus, interdependence with Russia did not constrain EU rule transfer, because the agenda of the Armenian government displayed an overall fit with the ENP prescription and Russia provided for additional assistance for its implementation.

4.2 From Inertia to Selective Compliance: Migration Policies in Georgia

Until 2008, the government under President Mikheil Saakashvili showed little interest in reforming migration-related policies in Georgia. In line with its overall neoliberal agenda, the Singaporean model of the maximal deregulation of the state constrained the regulation of migration flows, as it was promoted by the Armenian authorities. As opposed to halting migration, mobility was put upfront of the Georgian agenda in order to keep a steady inflow of remittance payments and boost the tourism sector. Compliance processes with ENP migration policies only started after August 2008, when the EU clearly linked policy conditionality to its offer of visa facilitation agreements, which was reinforced by an indirect additional conditionality of Russia.

Government preferences in Georgia

The Rose Revolution in 2003 brought to power a group of young reformers led by former Justice Minister Mikheil Saakashvili and Parliament speaker Nino Burjanadze that had peacefully ousted the former President Eduard Shevardnadze, whom they accused of widespread corruption. In 2004, Mikheil Saakashvili, the young western-educated politician was sworn in as President, pledging to clean the country of corruption, reinstall its territorial integrity and integrate the country into Euro-Atlantic structures (Companjen 2010: 24). Saakashvili's United National Movement acquired a stronghold in Parliament and mainly co-opted large parts of the civil society in the newly formed administration, leaving the country without a powerful opposition. In addition, Saakashvili successfully introduced amendments to the Georgian constitution into Parliament to further extend the presidential powers. What followed was a quick reintegration of the formerly separatist region of Adjaria and a successful crackdown of petty corruption, while South Ossetia and Abkhazia remained de facto independent republics in the international borders of Georgia and elite corruption remained widespread. With the arrival of Kakha Bendukidze, an ethnic Georgian and Russian oligarch, a neo-liberal reform consensus was established within the Saakashvili administration from 2004 onwards. The deregulation of the state with the overall aim to reach a double digit economic growth, dovetailed Saakashvili's radical anti-corruption agenda and was praised as the only way to consolidate the impoverished Georgian state (European Stability Initiative 2010a: 9). As early as 2006, Bendukidze's reforms rewarded Georgia with the label "best reformer" in the Doing Business Index of the World Bank (World Bank 2006). In the meantime the relationship to Russia had worsened considerably after several conflicts over gas deliveries in the winter of 2005 and 2006, trade embargos for certain Georgian products and the "spy crisis" (Hedenskog/Larsson 2007). As a result, Bendukidze's privatization agenda was under attack of the marginalized Georgian opposition, claiming that he was selling strategic assets of the Georgian economy to Russia (Papava 2006). After increased internal criticism of Saakashvili's reforms in 2008, early presidential elections in January and the war with Russia in August that year, Bendukidze was ousted.

Under the newly formed government under Mikheil Saakashvili and his United National Movement policies related to migration management were not an issue of particular salience. This was first of all due to a massive inflow of Georgians shortly after Saakashvili's successful revolution and a comparatively better migration balance than in Armenia. Yet, Georgia had lost approximately 20 percent of its population from

the 1990s to 2002 (Badurashvili 2011: 79), relapsed into an increasing outflow in 2006 and figured, just like Armenia, mostly as an emigration country (National Statistics Office of Georgia 2011; State Migration Service 2011).

Migration was still not of particular concern to the Georgian government. It was not raised in Saakashvili's presidential election campaign, in his inaugural speech of 2004 or in the party program of his United National Movement (United National Movement 2011). His government rather focussed on internal migration issues intrinsically linked to the secessionist conflicts in Georgia. Border demarcation and the internal displacement of ethnic Georgians from the de facto republics were included into the governmental agenda (Government of Georgia 2005; Van Selm 2005), corresponding to historical notions of Georgian nationalism that was far more linked to territorial integrity and independence than to diaspora cooperation or return (Reisner 2009). Likewise, and presumably due to more positive experiences of migratory movements in the past, emigration was not considered a "curse" as it was the case in Armenia (Savvidis 2011).

Instead of halting emigration, the Georgian authorities were committed to the freedom of movement, to "promote Georgian labor migration" (Ministry of Foreign Affairs of the Republic of Georgia 2006: 16) and "increase labor mobility" (Government of Georgia 2005). The liberalization and simplification of movement for Georgian citizens was salient on the foreign policy agenda of the government (Ministry of Foreign Affairs of the Republic of Georgia 2006), particularly in terms of its contribution to economic development. In 2004 the *Law on Temporary Entry, Stay and Exit of Foreigners* was amended to provide for a liberal visa regime with the aim to attract and facilitate the inflow of investors and tourists (World Bank 2005: 24). Investment attraction also guided the relationships with Georgians abroad and the Foreign Policy Strategy of 2006 stressed the need to exploit the Diaspora's potential for investment attraction (Ministry of Foreign Affairs of the Republic of Georgia 2006). The deregulatory agenda on migration issues was further demonstrated by presidential statements of 2010, when Saakashvili promoted to follow Singapore as a model and create an "economy that will create migration" (Saakashvili 2010).

In a nutshell, "migration issues [were] far from being a top priority for a country with a wide range of territorial, political, and economic problems" (Van Selm 2005). Yet, the Singapore model, which significantly shaped the overall reform context in Georgia after the Rose Revolution, also left its traces on the governmental stance towards migration issues. The Saakashvili government, apart from promoting territorial integrity and the integration into Euro-Atlantic structures, also promoted deregulated migration and enhanced mobility as a means to foster economic development.

Policy-Conditionality and Russia as a Promoter for Euro-Atlantic Integration

Inertia has prevailed with regard to rule adoption and implementation of ENP migration demands until recently. The change of compliance patterns goes back to developments in late 2008 when Georgia was confronted with concerted policy conditionality that indirectly stemmed from both the EU and Russia: while the EU clearly linked its policy conditionality to visa facilitation, demanding Georgia to implement readmission agreements and document security, the latter needed to profit from visa facilitation in order to thwart negative consequences invoked by Russia.

Until late 2009, little progress was made on complying with ENP migration policies in Georgia. Prior to the overall *EC readmission agreement* that Georgia signed in November 2009 few bilateral readmission agreements with individual member states were signed. Five agreements were put in place with Switzerland, Ukraine, Bulgaria, Italy and Germany (International Organization for Migration 2008: 12), while the agreement with Italy was never implemented (Government of Georgia 2009). In addition, Georgia did not adopt a national action plan on migration and asylum. The Ministry in charge of the coordination of migration policies, the Ministry for Refugees and Accommodation in 2008, initially worked on a draft action plan, which was also commented on by IOM. However, this draft was not considered by the government and ended on the ministerial shelves.¹⁷ Following statements of IOs and governmental experts, drafting policies in the sphere of migration was not considered to be urgent, lacked powerful advocates in the government and was thus not put on the governmental agenda.¹⁸ Stakeholders also attributed the lack of policy drafting in the sphere of migration to the overall disbelief in regulation prevailing within the Georgian government and society (Civil Georgia 2010; European Stability Initiative 2010b). Other civil society representatives also stressed that there were simply more urgent issues to be tackled in Georgia, rendering the EU focus on migration regulation illegitimate.¹⁹ The Ministry of Refugees and Accommodation remained rather inactive within the Georgian government and sought only little EU support. It applied for one TAIEX project on labor migration (European Commission 2011b), which a representative of the IOM in Georgia bluntly called “a waste of money”.²⁰ Concerning the enhancement of document security, Georgia again made little progress until 2008. While Armenia had already updated its travel documents’ security and complied with respective international standards, Georgia failed to do so before 2008. In a nutshell, inertia prevailed with regard to migration policy reform, going back mainly to a lack of interest from the Georgian side and the hands-off approach of the Georgian government with regard to mobility issues.

Yet, Georgia had continuously stressed the need to profit from early visa facilitation with the EU, an issue that was in line with the overall agenda of mobility promotion and Euro-Atlantic integration of the government. Another factor that significantly shaped the Georgian demand for visa facilitation originated from the fact that the EU and Russia had already enforced a bilateral visa facilitation agreement in 2007. As Russia distributed its passports to the population in the Georgian break-away territories, the Georgian authorities considered the EU-Russian agreement to be an indirect encouragement of separatism as they facilitated travel to the EU for persons accepting Russian passportization (Goble 2008). Hence, the negative incentives stemming from Russia functioned as an additional source of policy conditionality. Visa facilitation was needed in order to thwart the potential negative effect on the governmental priority to reinstall

¹⁷ Interview conducted with an EU official at the European Delegation to Georgia in Tbilisi, Georgia, October 2010; Interview conducted with a representative of the Georgian branch of the International Organization for Migration in Tbilisi, Georgia, October 2010.

¹⁸ Interview conducted with a representative of the Georgian branch of the International Organization for Migration in Tbilisi, Georgia, 10/2010; Interview conducted with a civil servant at the Office of the State Minister of Euro-Atlantic Integration of the Republic of Georgia in Tbilisi, Georgia, October 2010.

¹⁹ As an example, one interviewee stated that “not everything that the European Union tells us has to be implemented in the same way. (...) This is not our aspiration, what we want.” (Interview with staff of the Caucasian Institute for Development in Tbilisi, Georgia, October 2010).

²⁰ Interview conducted with a representative of the Georgian branch of the International Organization for Migration in Tbilisi, Georgia, October 2010.

Georgia's territorial integrity. Russia thus linked the prospect of visa facilitation to the "greater good" of territorial integrity and added salience to the "smaller carrot" of visa facilitation. While the Georgian authorities frequently hinted at their progress on border management, they still continued to lack substantial efforts in the areas of document security and their overall migration management until 2008 (European Commission 2008b), since the prospect of visa facilitation of the EU was not matched by a concrete mandate of the European Commission to start negotiations.

The situation changed after the war with Russia in August 2008. Following the cease-fire agreement, the EU indeed rewarded Georgia with a negotiation mandate on visa facilitation. The mandate was given explicitly as a result of the conflict and aimed at providing equality to Russian and Georgian citizens, as the conclusions of the Extraordinary European Council in 2008 documented (RAPID 2008). The EU clearly linked visa facilitation to the signing of the EC readmission agreement and the introduction of biometric passports as non-negotiable parts to the prospect of visa facilitation.²¹ In 2008, Franco Frattini, EU-Commissioner for Justice, Freedom and Security called for the introduction of biometric passports in Georgia in 2009 to profit from visa facilitation (International Organization for Migration 2008), while the package approach of EC readmission and visa facilitation agreements had been institutionalized for a longer time (Trauner/Kruse 2008b).

Georgia subsequently progressed with regard to *document security*. The agency charged with its implementation, the Civil Registry Agency of Georgia, managed to introduce the passports in April 2010 supported by a strong financial commitment of the EU under the ENPI umbrella (Civil Registry Agency Georgia 2011; Kirtzkhilia 2010). Representatives of the Civil Registry Agency stressed that the introduction of biometric passports was due to tough conditionality on the EU side in the visa facilitation process.²² However, the *EC readmission negotiations*, which were opened at the same time as the visa facilitation negotiations, still faced some domestic obstacles given Georgia's highly liberal migration policy. The EC readmission proposal foresaw that all third country nationals had to be readmitted back to Georgia, if their documents showed that they had been in Georgia before. As stated by representatives of Georgia and the EU in the negotiations, the proposal raised severe criticism from the Georgian side, as the liberal visa regime of Georgia increased the probability of readmitting people that had easily entered the country from other states.²³ The provision could be watered down by the Georgian negotiators so that the final document only listed third country nationals that were holding a valid or shortly outdated visa from Georgia to be readmitted back.²⁴ The negotiations were successfully finished on 17 June 2010, when the visa facilitation agreement was signed (RAPID 2010). Compliance thus remained selective, due to the fact that Georgia indeed managed to introduce biometric passports, but signed a watered-down readmission agreement and has so far failed to pass a national action plan on migration.

21 Interview with an official of the EU division in the Ministry of Foreign Affairs of Georgia in Tbilisi, Georgia, October 2010.

22 Interview with an official of the Civil Registry Agency of the Ministry of Justice of Georgia in Tbilisi, October 2010.

23 Interview with an official the Office of the State Minister of Euro-Atlantic Integration in Tbilisi, Georgia, October 2010; Interview with an official of the European Commission, DG Home Affairs, Brussels, Belgium, August 2011.

24 Interview with an official of the Office of the State Minister of Euro-Atlantic Integration in Tbilisi, Georgia, October 2010.

Russia, figuring as the provider of an indirect additional conditionality in the visa facilitation process, was still used by Georgian authorities as a reference point to lobby for quicker EU integration. The Georgian ambassador to the EU strongly blamed the EU visa policy to “endanger Georgia [sic!] peace effort” naming the EU policy a “terrible and dangerous precedent” (Samadashvili 2007) and called for the immediate opening of negotiations on EU-Georgian visa facilitation. The same pattern occurred with regard to visa liberalization. The State Minister for Euro-Atlantic integration indirectly accused the EU of trading Georgian sovereignty by not granting visa liberalization to Georgia prior to Russia:

“We are not complaining. But we are warning our friends that it would be very unwise to give Russia visa liberalisation before us - not because we are against it in principle, but because of Russia’s illegal passportisation. It would be very damaging for EU’s policies in support of Georgia’s territorial integrity and sovereignty” (Giorgi Baramidze cited in: Pop 2011).

The negative incentives provided to Georgia with the Russian passportization did thus not only add leverage to the conditionality of the EU after the war in 2008. In light of the strong endorsement of the principle of territorial integrity by the EU, the negative incentives provided by the Russian passportization also equipped Georgia with a means to successfully put pressure on the EU in return. The early provision of the incentive of visa facilitation to Georgia was no longer linked to the regatta principle and differentiation between the neighborhood countries, but to geopolitical concerns. In a nutshell, the confrontation between Georgia and Russia helped to provide for additional conditionality to overcome the incompatibility of the ENP and the Georgian agenda, while at the same time it could be used by the Georgian authorities to successfully pressure the EU for a quicker integration of Georgia.

5. Conclusion

The paper asked the question under which conditions interdependence with Russia (does not) constrain processes of EU rule transfer in the Eastern Neighborhood. It argued that the differential impact of interdependence with Russia on compliance with EU migration policies in Georgia and Armenia depends on two domestic conditions: the preferential fit of the domestic governmental agenda and the ENP rules, as well as the invocation of policy conditionality by external actors.

In the cases under scrutiny in this paper, the adoption and implementation of ENP rules was facilitated by both negative and positive incentive structures provided by Russia and depended on the preferential fit of the ENP rule and the domestic government. Armenia used the cooperation with Russia as an additional opportunity to implement its migration policy agenda that was compatible with ENP migration prescriptions, while at the same time it served the Armenian elite to decrease domestic economic and political pressure after the financial crisis in 2009. In Georgia, however, the regulative EU policies were at odds with a highly liberal approach of the government. Hence, the Georgian government implemented the EU rules merely as a reaction to the negative incentives stemming from Russia’s policies in Georgia’s secessionist republics, which provided for additional conditionality to the EU demands. Selective compliance with the non-negotiable migration policies in the visa facilitation process with the EU was thus predominantly pursued

in order to thwart the impact of indirect policy conditionality from Russia and pursue the governmental agenda on establishing territorial integrity. Most interestingly, the case of Georgia shows that ENC can also use their relationship to other external actors in order to put increasing pressure on the EU to accelerate integration processes, which proved successful in the case of visa facilitation with the EU.

While these findings do not challenge the overall argument brought forward by the literature on external governance, they suggest a change in perspectives: the recipients of rules promoted by the EU are not only passively targeted by institutionalized modes of governance from the EU or foreign policy instruments applied by Russia; the governments of target countries actively pick and choose between different policy options in line with their own agendas. In cases of more than one actor involved, cross-conditionality and cross-socialization processes can thus occur. The findings of the paper yet suggest that they do not depend on high interdependence or the proclamation of different “spheres of influence” as such, but on the added value they have for domestic governments to cater their relevant constituencies. The adoption of a stronger bottom-up perspective on power-based approaches of external governance can thus help to better understand why some rules travel under conditions of multiple interdependence, while others do not.

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