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Democracy Promotion Meets Development Cooperation: The EU as a Promoter of Democratic Governance in Sub-Saharan Africa

KAREN DEL BIONDO*

Abstract. This article analyses whether the European Union (EU) has a standard substantive content that it tries to promote in sub-Saharan Africa. It is argued that the EU's policies are both broad and limited. On the one hand, the EU promotes a holistic agenda of 'democratic governance', inspired by the paradigms of international development cooperation, namely good governance, the securitization of development policies and participatory development. This is clearly reflected in the aid programmes. At the same time, there is some differentiation between various sub-Saharan African countries, which can be explained mostly by the specific situation and needs of the countries and by the openness of partner countries to democracy assistance. On the other hand, when looking at EU political conditionality, only a very limited, electoral, democratic model is promoted, with little variation according to the specific situation in the country.

I Introduction

Democratization has been a key aspect of the policies of the European Union (EU)¹ towards sub-Saharan Africa since the early 1990s. The EU's agreements with the Africa, Caribbean, Pacific group (ACP) were the first to include a human rights clause and the clause, although included in every external agreement of the EU, has been applied exclusively in this region. Sub-Saharan Africa is the poorest region in the world, and the EU is not only a foreign policy actor that strives for democracy in the region but is also an important donor. As such, its policies are, to a great extent, derived from the international development agenda.

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¹ In this article, we will consistently speak of the EU, even when referring to policies of the former European Community (EC). Although the article touches on events that took place before the entry into force of the Lisbon Treaty (which put an end to the pillar structure), we believe that the EU-EC distinction would be confusing, writing in the Post-Lisbon era.

This article therefore argues that the substance of EU democracy promotion in sub-Saharan Africa is influenced by the paradigms of international development cooperation. Three paradigms are identified: the good governance agenda, the securitization of development policies and participatory development. This has resulted in a broad ‘democratic governance’ agenda, which reduced the importance of democratization as an end in itself, to the benefit of aid efficiency and even the promotion of EU interests. While this conclusion applies to the EU’s aid programmes, different findings emerge from the analysis of political conditionality. The article will show that aid sanctions are used by the EU to promote a very limited, electoral form of democracy.

The article proceeds as follows. Section II focuses on EU discourse on democracy and good governance in the ACP region. It analyses the EU’s definition of democracy and good governance on the basis of the embedded democracy framework (see Wetzel and Orbie in this issue). The third section establishes on which specific subsectors of democratic governance the EU’s main focus lies. For this section, National Indicative Programmes (NIPs) spelling out the development strategies for the 9th and 10th European Development Fund (EDF; the main budget for development cooperation in the ACP countries) are analysed. Explanations are sought for possible differentiation in the substance of EU democracy promotion. In a fourth and last part, the article concentrates on the EU agenda towards cases where it uses political conditionality to promote democracy.

II Defining Democracy: Liberal Democracy Plus Good Governance Makes Democratic Governance?

The Cotonou Agreement (2000–2020) between the EU and the ACP group attempts to provide definitions on the norms that are pursued through the agreement: human rights, democratic principles, the rule of law and good governance. A 1998 Commission Communication was specifically dedicated to the topic.² By identifying legitimacy, legality and effective application as three key democratic principles, the EU’s definition is actually close to that of a liberal democracy, consisting five partial regimes: (1) a core electoral regime, (2) political rights, (3) civil rights, (4) horizontal accountability and (5) effective power to govern (see Wetzel and Orbie in this issue). Legitimacy refers to the electoral regime, which is the core element and prerequisite of liberal democracy. Although the Communication more generally refers to ‘systems recognized by the citizens’, the ‘election of a country’s leaders by free universal suffrage in a secret ballot’ is

² European Commission, ‘Democratisation, the Rule of Law, Respect for Human Rights and Good Governance: The Challenges of the Partnership between the EU and the ACP States’, COM (98) 146 (Brussels, 12 Mar. 1998).

explicitly mentioned as a mechanism for legitimacy.³ Legality refers to the respect for political rights and civil liberties, which should be protected by the rule of law. The Communication emphasizes the need for an ‘appropriate constitutional, regulatory and legislative system’⁴ to ensure that human rights are respected. Effective application includes horizontal accountability: it involves the separation of powers, accountability of the executive and control on the executive by independent mechanisms. Effective application also refers to political pluralism, as ensured by the full respect for civil and political rights: freedom of press, assembly and opposition. Lastly – and this seems to go beyond the above-mentioned definition of liberal democracy – effective application also implies the existence of institutions for participatory decision-making.

In the context of ACP-EU relations, one should not only emphasize discourse on democracy but also on good governance. Good governance is seen as an external condition of embedded democracy (see Wetzel and Orbie in this issue). As such, a well-functioning administration, free from corruption, is necessary for the ‘stateness’ of a democratic country. However, it should be noted that good governance serves a double objective: not only does it strengthen democracy, but it is also seen by most donors as a precondition for development and economic liberalization. Good governance and liberal democracy are often seen as two sides of the same coin. This is also reflected in the scholarly discussion on good governance. Some definitions focus on output or performance dimensions, the goal being an efficient, market friendly administration (see, for example, Reynaert in this special issue), while others focus on the input or process dimensions, the goal being liberal democracy.⁵

While deriving from the international development agenda and more specifically from the views advocated by the World Bank since the late 1980s, good governance is also one of the nine substantive normative principles that, according to Manners, both constitute and are promoted by the EU.⁶ To the EU internally good governance has been increasingly emphasized since the resignation of the Prodi Commission in 1999 and encompasses principles such as transparency, openness and participation of civil society. In the context of ACP-EU relations, it was first mentioned in the 1995 Revision of the Lomé-IV Agreement as a ‘particular aim of cooperation operations’.⁷ The Cotonou Agreement defines good governance in terms of the above-described output dimension:

³ *Ibid.*

⁴ *Ibid.*

⁵ For an explanation of the different interpretations of good governance, see T. Börzel, Y. Pasemuk & A. Stahn, *Good Governance in the European Union* (Berlin: Free University of Berlin, 2008), 5–7; and P. Hoebink ‘European Donors and “Good Governance”: Condition or Goal?’, *The European Journal of Development Research* 18, no. 1 (2006): 132–135.

⁶ I. Manners, ‘The Normative Ethics of the European Union’, *International Affairs* 84, no. 1 (2008): 54–55.

⁷ Lomé IV-*bis* Agreement, Art. 5.

‘the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development’.⁸ More recently, however, the EU introduced ‘democratic governance’ as an umbrella term encompassing both input and output dimensions. In a recent Commission Communication, democratic governance is defined as follows:

Respect of human rights and fundamental freedoms (including freedom of expression, information and association); support for democratisation processes and the involvement of citizens in choosing and overseeing those who govern them; respect for the rule of law and access for all to an independent justice system; access to information; a government that governs transparently and is accountable to the relevant institutions and to the electorate; human security; management of migration flows; effective institutions; access to basic social services; sustainable management of natural and energy resources and of the environment; and the promotion of sustainable economic growth and social cohesion in a climate conducive to private investment.⁹

This definition suggests a radically different approach to good governance and democratization, linking democracy with ‘output’ governance by stressing transparent and accountable government, effective institutions, sustainable management of the environment and promotion of economic growth. The inclusion of security objectives, such as human security and management of migration flows, reflects a trend in international development cooperation, whereby security issues become more and more entrenched in development policies and development policy becomes ‘securitized’.¹⁰ Civil society organizations have criticized the reference to migration as being primarily in the interest of the EU.¹¹ This democratic governance perspective has been the basis of the formulation of a new strategy to promote governance in ACP countries through dialogue and positive conditionality. The Governance Initiative (2006) entails that the EU draws up a Governance Profile for each ACP state. On the basis of these profiles, recipient countries should present a Governance Action Plan with strategies to cope with the difficulties identified by the EU. These plans are assessed by the EU, which decides whether to allocate the Governance Incentive Tranche that involves between 10% and 35% additional aid on top of the initial amount.¹²

⁸ Cotonou Partnership Agreement (CPA), Art. 9.

⁹ European Commission, ‘Governance in the European Consensus on Development’, COM (2006) 421 (Brussels, 30 Aug. 2006).

¹⁰ A. Hadfield, ‘Janus Advances? An Analysis of EC Development Policy and the 2005 Amended Cotonou Partnership Agreement’, *European Foreign Affairs Review* 12, no. 1 (2007): 39–66.

¹¹ M. Carbone, ‘The European Union, Good Governance and Aid Co-ordination’, *Third World Quarterly* 31, no. 1 (2010): 23.

¹² N. Molenaers & L. Nijs, ‘From the Theory of Aid Effectiveness to the Practice: The European Commission Governance Incentive Tranche’, *Development Policy Review* 27, no. 5 (2009): 561–580.

The nine categories used for these Governance Profiles reflect the EU definition of democratic governance.¹³

III EU Promotion of ‘Democratic Governance’ in Practice

The EU is committed to increase financial assistance to promote governance in ACP countries.¹⁴ While the bulk of financial assistance comes from the EDF, the European Instrument for Democracy and Human Rights (EIDHR) provides for additional funding that is implemented without consent of the government. EIDHR programmes in sub-Saharan Africa in 2002–2006 focused mostly on elections, civil society and conflict prevention.¹⁵ With regard to the EDF, institutional support and capacity building is one of the cross-cutting themes of ACP-EC development cooperation. This includes support measures in various areas, including democracy, human rights, the rule of law, transparent and accountable governance, fight against corruption, civil service reform, strengthening public finance management, decentralization, enhancement of public sector capacity and capacity building of non-state actors.¹⁶ To a large extent, this reflects the above-mentioned definition of democratic governance.

The core electoral regime of liberal democracy is seen as crucial by the EU: ‘Elections are a key step in the democratic process’.¹⁷ The ACP region is a favoured destination for EU electoral support: nearly 75% of EU electoral assistance between 2000 and 2005 was directed to the ACP group.¹⁸ A potential explanation is that most of these countries are economically and politically weak and therefore have the need for electoral assistance and for international legitimation. In addition to electoral support, the EU funds non-executive democratic institutions that can ensure horizontal accountability. In this area, cooperation in the judicial sector is dominant. Parliamentary assistance is less frequent, although

¹³ These are: (1) political governance: human rights, fundamental freedoms, electoral process, constitutional democracy; (2) the rule of law: the judicial and law enforcement system; (3) control of corruption; (4) government effectiveness: institutional capacity and public finance management; (5) economic governance: private sector/market friendly policies; (6) international and external security; (7) social governance: gender, decent work, HIV/AIDS; (8) international and regional context: regional integration, involvement in regional initiatives, migration and (9) quality of the partnership: programming and political dialogue.

¹⁴ European Commission, *supra* n. 9, at 13.

¹⁵ European Commission, ‘European Initiative for Democracy and Human Rights Programming Document 2002–2004’ (Brussels, 20 Dec. 2001); and European Commission, ‘European Initiative for Democracy and Human Rights (EIDHR) Programming for 2005–2006’, <ec.europa.eu/europeaid/what/human-rights/documents/eidhr-programming-2005-2006_en.pdf>, 3 Feb. 2011.

¹⁶ CPA, Art. 33.

¹⁷ European Commission and Council of the European Union, ‘Joint Paper on Democracy Building in EU External Relations’, SEC (2009) 1095 final (Brussels, 27 Jul. 2009), 17.

¹⁸ Europeaid, ‘Methodological Guide on Electoral Assistance’ (Brussels, October 2006), 29.

this could change in the near future, as the most recent revision of the Cotonou Agreement puts increased emphasis on the involvement of national parliaments in the formulation of development strategies and suggests increased capacity building to strengthen national parliaments in this role.¹⁹ In some cases, the EU finances human rights commissions, anti-corruption commissions, ombudsman offices or audit services. The EU also promotes the ‘effective power to govern’ through Security Sector Reform (SSR) programmes. EU SSR programmes have been implemented more and more often in sub-Saharan Africa, in accordance with the securitization of development policies.²⁰

While the above-mentioned areas of democracy assistance aim to strengthen liberal democracy, the external conditions of embedded democracy are much more often supported by the EU, including ‘stateness’ and ‘civil society’. However, this is not in the first place related to EU democracy promotion but to the EU’s incorporation of new principles in international development cooperation, namely, good governance and participatory development. EU promotion of ‘stateness’ or ‘good governance’ is primarily geared at the support of what was called earlier the ‘output dimensions’ of governance. Although a functioning bureaucracy might enhance democratization in an indirect way, the main aim of these programmes is to make development cooperation more effective by strengthening the capacity of governments to implement economic reform. Good governance programmes are mainly technical projects, such as civil service reform or public finance management. The Economic Management and Capacity-Building Project (EMCAP) in Nigeria is a case in the point, as it was completely aimed at improving the capacity of the Nigerian government to implement development programmes and strategies. EMCAP included the development of social statistics and the set-up of a database to link key public finance institutions.²¹ Similarly, civil service reform in Sierra Leone aimed to ‘bring civil servants up to the level where they can contribute effectively to the challenging development agenda’.²² In other instances, governance reform was aimed directly at advancing EU interests. For example, in Mali and Djibouti, capacity-building programmes were meant to enable the Ministries to control migratory flows into the EU.

Similarly, support to civil society derives from the international tendency to promote ‘participatory development’, which gained ground in the late 1990s. The origins of this approach lie in the World Bank’s Comprehensive Development Framework, which introduced the formulation of national development strategies on the basis of partnership between government, civil society, private sector and other stakeholders. These principles were later put into practice with the Poverty

¹⁹ CPA (Revised 2010), Art. 4.

²⁰ R. Youngs, ‘Fusing Security and Development: Just Another Euro-Plattitude?’, *Journal of European Integration* 30, no. 3 (2008): 433.

²¹ European Union Delegation in Nigeria, ‘Project sheet EMCAP’, <www.delnga.ec.europa.eu/projects/operations2_project%20sheets/Main_projects/PROJECT%20SHEET%20-%20EMCAP.pdf>, 15 Dec. 2010.

²² European Community and Sierra Leone, ‘National Indicative Programme EC–Sierra Leone 2008–2013’, <ec.europa.eu/development/icenter/repository/scanned_sl_csp10_en.pdf>, 11 Mar. 2011.

Reduction Strategy Papers.²³ However, participatory development is not only based on ideas of democratic input but also on aid efficiency: non-governmental organizations are believed to deliver services normally provided by the state in a more cost-effective and accountable manner.²⁴ The Cotonou Agreement advocates a participatory approach and the involvement of non-state actors both as implementers of EU development assistance and in their ‘advocacy’ role where they can contribute to the formulation of development strategies. The term ‘non-state actors’ is used to describe the wide range of actors the EU wants to involve in aid programming: the private sector, civil society and economic and social partners.²⁵ EDF-financed capacity-building programmes for civil society mainly support non-state actors in their roles as service providers and contributors to the Country Strategy Papers (CSPs). For example, the overall goal of the INSIDE programme (Increasing Non-State Actors’ Implementation and Development Expertise) in Nigeria is to ‘empower Non-State Actors to be informed of, and to contribute to, development policies and processes’.²⁶ INSIDE only finances projects in the four focal sectors of the CSP for 2008–2013, only one of which is democratization and good governance.²⁷ In some countries, umbrella networks of civil society and business organizations are created under EU funding, such as the OANET (*Organisation des Acteurs Non-Etatiques*) in Chad or the Non-State Actors Coalition in Ethiopia.

It can be concluded that there is a ‘standard’ substance of democratic governance pursued by the EU in sub-Saharan Africa, involving both the promotion of liberal democracy and its external conditions, although the latter are not always directly aimed at democracy promotion but at enhancing aid effectiveness by strengthening state and non-state capacity. What is remarkable is that, while administrative governance promotion or support to non-state actors does not contribute automatically to democratization, almost all NIPs under the 9th and 10th EDF include support in these sectors. Support for non-state actors is even included systematically in country programming,²⁸ although it has to be added that NSA programmes are usually quite small in financial terms.

This does not mean that the EU follows a ‘one-size-fits-all’ scenario towards sub-Saharan Africa. There is certainly variance in the specific subsectors of democratic governance that the EU promotes in the different countries. The main explanatory factors for this differentiation are the particular needs identified by the

²³ P. Uvin, *Human Rights and Development* (Bloomfield: Kumarian Press, 2004), 72–73.

²⁴ N. Hildyard & A. Wilks, ‘An Effective State? But Effective for Whom?’, *IDS Bulletin* 29, no. 2 (1998): 52.

²⁵ M. Carbone, ‘Theory and Practice of Participation: Civil Society and EU Development Policy’, *Perspectives on European Politics and Society* 9, no. 2 (2008): 245.

²⁶ INSIDE, ‘INSIDE Manual’, <www.insidenigeria.org/documents/1256024461inside_manual.pdf>, 15 Dec. 2010.

²⁷ *Ibid.*

²⁸ European Commission, ‘Programming Guide for Strategy Papers. Programming Fiche: Non-State Actors’, <ec.europa.eu/development/icenter/repository/iqsg_support_NSAs2_en.pdf>, 9 Mar. 2011.

EU and the country's own priorities and reluctance to allow intrusive programmes. In post-conflict states, the EU often focuses on justice and the security sector. In Rwanda, EUR 36.6 million was invested in support for the courts, the Ministry of Justice, human rights commission, the National Unity and Reconciliation Commission and Demobilization, Disarmament and Reintegration (DDR).²⁹ In the Democratic Republic of Congo (DRC), EUR 20 million was provided to DDR, EUR 28 million to justice and almost EUR 10 million to police and SSR (EUPOL-Kinshasa and EUPOL-DR Congo).³⁰ Whereas in Rwanda, the EU refrained from investing too much in elections, possibly out of fear for the potential destabilizing effects,³¹ in the DRC, the EU invested EUR 165 million in the 2006 elections, including a military mission for the securitization of the elections.³²

In countries with very severe corruption, such as Nigeria and Chad, EU support is often concentrated on the fight against corruption and public finance management. This is both in the interest of the EU as of the partner countries, as corruption seriously hampers development in these countries, but at the same time causes a waste of development funds. Therefore, in Nigeria, administrative governance was mainstreamed in the focal sector of EU cooperation, water and sanitation. In addition, direct support was provided to the anti-corruption commission in Nigeria (EUR 24 million approximately) or the modernization of public finance management in Chad (EUR 5 million). But this has not precluded the EU from financing more political sectors, including electoral support (EUR 46.5 million in Nigeria, EUR 5 million in Chad).³³ Lastly, in those countries with which the EU agreed on a roadmap of reforms in the framework of Article 96 (see *infra*), EU financial assistance tends to concentrate on these issues and therefore is more political, linked to issues of liberal democracy.

One also has to remind that aid programming is not always EU driven. In accordance with international engagements on aid effectiveness, including the Paris Declaration (2005) and the Accra Agenda for Action (2008), the EU subscribes to the principles of ownership and alignment. This is particularly important for democracy assistance, as governments might restrict the possibility of donor funding in sectors that are regarded as too politically intrusive.

²⁹ 'European Community and Rwanda, Country Strategy Paper and National Indicative Programme 2002–2007 and 2008–2013', <ec.europa.eu/europeaid/where/acp/country-cooperation/rwanda/rwanda_en.htm>, 10 Mar. 2011.

³⁰ 'European Community and Democratic Republic of Congo, Country Strategy Paper and National Indicative Programme 2002–2007 and 2008–2013', <ec.europa.eu/europeaid/where/acp/country-cooperation/congo-democratic-republic/congo_en.htm>, 11 Mar. 2011.

³¹ R. Hayman, 'Going in the "Right" Direction? Promotion of Democracy in Rwanda since 1990', *Taiwan Journal of Democracy* 5, no. 1 (2009): 54.

³² European Community and Democratic Republic of Congo, *supra* n. 30.

³³ République du Tchad – Union Européenne, 'Rapport Annuel Conjoint 2008', <http://ec.europa.eu/delegations/deltcd/fr/eu_and_country/td_rac_2008.pdf>, 11 Aug. 2011, 15; and European Union delegation in Nigeria, 'Project sheet – Support to Nigerian Electoral Cycle 2006–2011', <www.delnga.ec.europa.eu/projects/operations2_project%20sheets/Main_projects/PROJECT%20-SHEET-%20Elections%202007.pdf>, 11 Aug. 2011.

For example, some sub-Saharan African countries, including Ethiopia, Eritrea and Zimbabwe, have introduced legislation to restrict foreign-funded non-governmental organizations from working on advocacy issues, which makes EU bottom-up democracy assistance very difficult.

IV EU Promotion of Democratic Governance through Conditionality

While capacity building is the standard instrument to support governments in their democratization processes, the EU has in some cases exerted pressure on sub-Saharan African countries to pursue democratic reforms. Unlike capacity building, which is essentially development cooperation and thus the responsibility of the European Commission, conditionality is mainly a foreign policy issue, where the Council plays the first fiddle. With the Lisbon Treaty and the creation of the European External Action Service, the distinction is less pronounced, as both foreign policy and development cooperation are now to a large extent the responsibility of the High Representative of the Union for Foreign and Security Policy.³⁴ The basis of political conditionality is the introduction of human rights, democracy and the rule of law as essential elements and the inclusion of good governance as a fundamental element of ACP-EU cooperation.³⁵ These essential and fundamental elements, listed in Article 9 of the Cotonou Agreement, are regularly assessed in political dialogue with the government. The EU can also produce statements by the High Representative (formerly by the Council Presidency) to encourage or discourage developments in the democratization process. In the period 2000-2007, the overwhelming majority of these statements was related to the electoral or constitutional process in the partner countries (71.4%), while specific human rights issues such as individual human rights defenders (10.4%), the freedom of expression/the media (4.7%) and the freedom of association (3.1%) were mentioned less frequently.³⁶

When one of the essential or fundamental elements is violated and political dialogue is not possible or falls short in addressing the issue, the EU may call for consultations under Article 96 of the Cotonou Agreement (Article 97 in the case of the fundamental elements). During these consultations, the EU and the recipient country try to agree on a roadmap with reforms that have to be implemented to normalize relations. In most cases, the EU imposes ‘appropriate measures’,

³⁴ For a detailed analysis of the implications of the Treaty of Lisbon on development cooperation, see M. Furness, ‘The Lisbon Treaty, the European External Action Service and the Reshaping of EU Development Policy’, in *The European Union and Global Development*, ed. S. Gänzle, S. Grimm & D. Makhani (New York: Palgrave, forthcoming 2012).

³⁵ The distinction between ‘essential’ and ‘fundamental’ elements is in fact minor. It involves that only serious violations of good governance may be at the basis of the invocation of the human rights clause.

³⁶ The information provided here is derived from a database that is part of an ongoing PhD project, O. Rutazibwa, *In the Name of Human Rights: The Problematics of EU Ethical Foreign Policy in Africa and elsewhere* (Ghent University/European University Institute).

including a partial or full suspension of aid. These measures have to be agreed in the Council by a qualified majority of the votes in case of a partial suspension or by unanimity in the case of a full suspension of development cooperation. Table 1 gives an overview of the application of Article 96 of the Cotonou Agreement in sub-Saharan Africa. As is shown in the table, the EU interpretation of what constitutes a violation of the essential elements is quite narrow. It has been acknowledged by the EU that the Article 96 procedure has only been used for ‘occasions of significant and dramatic regression from the status quo – notably flawed elections or a coup d’état [...]’.³⁷ On the contrary, some countries with very poor records of political rights and civil liberties, including Eritrea, Equatorial Guinea and Chad, where press freedom, the freedom of opposition and the freedom of speech are at the lowest levels, have not been sanctioned.³⁸

Table 1 Overview of EU aid sanctions under Article 96 of the Cotonou Agreement, in sub-Saharan African countries (2001–2010)³⁹

Country	Date of invocation	Context
Côte d’Ivoire	22 Jan. 2001	Flawed presidential and legislative elections 2000
Liberia	23 Jul. 2001	Involvement with human rights violations by the Revolutionary United Front (RUF), lack of freedom of the press and of expression, corruption
Zimbabwe	29 Oct. 2001	Growing violence and insecurity, lack of freedom of expression, violence in the pre-electoral period, illegal occupation of land
Central African Republic	22 May 2003	<i>Coup d’état</i> 2003
Guinea-Bissau	19 Dec. 2003	<i>Coup d’état</i> 2003
Togo	30 Mar. 2004	Flawed presidential elections 2003
Guinea	30 Mar. 2004	Flawed presidential elections 2003
Mauritania	29 Nov. 2005	<i>Coup d’état</i> 2005
Mauritania	15 Sep. 2008	<i>Coup d’état</i> 2008
Guinea	16 Mar. 2009	<i>Coup d’état</i> 2008
Madagascar	4–5 Jun. 2009	<i>Coup d’état</i> 2009
Niger	27 Oct. 2009	Referendum for third mandate of President in view of presidential elections

³⁷ European Commission and Council of the European Union, *supra* n. 17, at 30.

³⁸ These countries figure amongst Freedom House’s *Worst of the Worst*, the world’s most repressive societies according to Freedom House reports on political rights and civil liberties.

³⁹ See L. Laakso, T. Kivimäki & M. Seppänen, *Evaluation of Coordination and Coherence in the Application of Article 96 of the Cotonou Agreement* (Amsterdam: Aksant, 2007), 52; and C. Portela, *European Union Sanctions and Foreign Policy* (London and New York: Routledge, 2010), 128. Recent consultations with Guinea-Bissau were not considered since they were not started at the time of writing.

In what follows, an analysis is made of EU conditions agreed during Article 96 consultations, on the basis of the Council Decisions concluding consultations. Some of the countries listed in the table are not mentioned as in these cases, the Council could not agree on a list of conditions with the partner country, namely Zimbabwe, Mauritania (2008) and Madagascar. Article 96 consultations typically deal with a wide range of issues regarding the necessary improvements of the essential elements. An important aspect of consultations is the electoral process, which was addressed in all the cases. This may involve, for example, the establishment or reform of an electoral commission (Liberia 2001, Guinea 2004) or the revision of electoral laws (Guinea 2004, Mauritania 2005, Niger 2009). In situations where trust among political parties is lacking, the EU insisted that national dialogue between parties was undertaken (Togo 2004, Côte d'Ivoire 2001).

In addition to the core electoral regime, Article 96 consultations equally dealt with the other partial regimes of liberal democracy. In order to create an environment conducive to free and fair elections, political rights such as freedom of the media and freedom of opposition were amongst the commitments in most cases. In the field of civil rights, Guinea (2009) promised to investigate the human rights abuses that were committed by the army in two violent crackdowns on demonstrators in 2006 and 2007. Liberia (2001), Togo (2004) and Mauritania (2005) agreed to set up an independent human rights commission. Horizontal accountability played a role in consultations with Côte d'Ivoire (2001), Guinea-Bissau (2003) and Mauritania (2005), where the EU demanded that new, independent and professional judges were appointed. In case of a *coup d'état*, the EU addressed the 'effective power to govern' by emphasizing civilian control over the military. This was a central theme during consultations with Guinea-Bissau (2003), which had experienced its second coup in five years. Good governance also played an important role in some of the consultations. For example, the Mauritanian authorities (2005) agreed to set up an anti-corruption strategy, provide statistics on public finance management, accept the principles of the Extractive Industries Transparency Initiative, give more autonomy to the Court of Auditors and the State Inspector-General and finalize reform in the transport sector. Guinea (2004) promised to enhance macroeconomic management and continue sectoral reforms and Niger (2009) ensured its commitment to sound economic and financial management during the transition. In these cases, the EU addressed good governance issues (a fundamental element), on the basis of the invocation of the violation of the essential elements, as the EU never started consultations on the basis of a violation of good governance (except in Liberia).

Thus, comparable to the EU's capacity building to promote democracy, EU conditionality strives for liberal democracy (elections, political rights, civil rights, horizontal accountability and effective power to govern) and good governance. However, the main EU concern seemed to be the return to electoral democracy. Indeed, the resumption of aid, partially or fully, is mostly related to improvements in the electoral process. This is clearly shown by the example of

Togo. When national dialogue was started between the Togolese parties in 2006, the EU unblocked a number of projects. As this dialogue resulted in an agreement improving the conditions for free and fair elections, such as an electoral timetable, the creation of a government of national unity and improvement of the electoral laws to include all political parties, the EU decided to release additional funds. Full cooperation was resumed in November 2007, after general elections were held deemed satisfactory by an EU observer team. However, the Council recognized that several commitments made during the consultations remained unfulfilled, notably regarding the investigation of human rights abuses and decentralization.⁴⁰ Other examples where the EU fully resumed aid to encourage free and fair elections, despite the fact that the other commitments were not addressed, are Côte d'Ivoire and Guinea-Bissau. The EU did not suspend aid towards these countries, because credible legislative (in Guinea-Bissau) and local elections (in Côte d'Ivoire) were held before consultations under Article 96 were concluded. However, at the same time, the EU acknowledged persistent problems in key areas, such as civilian control over the military in the case of Guinea-Bissau and the situation of foreign residents in the case of Côte d'Ivoire.⁴¹ Moreover, in these three countries, EU democracy assistance did not adequately address the root causes of the democratization problems. In Togo, the EU focused heavily on electoral assistance during the period of appropriate measures. Support to the judiciary was only released after the partial suspension of aid in 2005, and even then the amount available (EUR 8 million) was much smaller than the amount foreseen for elections (EUR 13.6 million).⁴² Problems in the security sector in coup-prone Guinea-Bissau were not addressed until 2008, when a SSR mission was approved.⁴³ In Côte d'Ivoire, there was hardly any democracy assistance before 2008.⁴⁴

⁴⁰ Council of the European Union, 'Declaration by the Presidency on behalf of the European Union on Togo', Council Doc. 12365/06 (Brussels, 31 Aug. 2006); and Council of the European Union, 'Consultations with the Togolese Republic under Article 96 of the Cotonou Agreement', Council Doc. 14133/07 (Brussels, 12 Nov. 2007).

⁴¹ Council of the European Union, 'Council Decision of 24 Sep. 2004 concluding consultations with Guinea-Bissau under Article 96 of the Cotonou Agreement', Council Decision 2004/680/EC, Official Journal of the European Communities L311, 27–29; and Council of the European Union, 'Council Decision Concluding Consultations with Côte d'Ivoire under Article 96 of the Cotonou Agreement', Council Decision 2001/510/EC, Official Journal of the European Communities, L 183, 38–41.

⁴² Togo and European Community, 'Document de Stratégie Pays et Programme Indicatif National Période 2008–2013', <ec.europa.eu/development/icenter/repository/scanned_tg_cps10_fr.pdf>, 15 Dec. 2010.

⁴³ European Union, 'EU Mission in Support of Security Sector Reform in the Republic of Guinea-Bissau', <www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/100930%20FACTSHEET%20EU%20SSR%20Guinea-Bissau%20-%20version%2012_EN.pdf>, 15 Dec. 2010.

⁴⁴ See OECD Creditor Reporting System, <stats.oecd.org/index.aspx>, 15 Dec. 2010.

V Conclusion

Democratization has become a central feature of EU relations with sub-Saharan African countries. However, the role of democratization in EU development cooperation has been increasingly framed from a 'governance' perspective. Currently, democracy and governance are seen as one single objective: 'democratic governance'. The centrality of development paradigms is shown in EU democracy assistance, where three trends are clearly reflected. First, the importance of administrative governance leads to the financing of programmes that are not meant to make the government more democratic but to enable it to successfully implement development programmes. Second, the 'securitization' of EU development policies resulted in increased financing of SSR in sub-Saharan Africa and the promotion of EU interests through governance promotion in the field of migration. Third, the capacity-building schemes the EU foresees for non-state actors are not necessarily beneficial to democratization but serve to make EU development cooperation 'participatory'. Within this broad definition of democratic governance, variation between countries is mainly based on the priorities and needs of the recipient countries and the country's own appropriation of governance reform.

While a broad definition of democratic governance dominates EU financial assistance, the EU's approach to political conditionality is based on a much more limited interpretation of democracy. The Cotonou Agreement's Article 96 is mostly used to induce countries that experienced electoral breakdown or a *coup d'état* to return to legitimate constitutional rule by organizing free and fair elections. Although the consultations mostly deal with a broader agenda of liberal democracy and good governance, the main carrot, namely that of financial assistance, is offered almost exclusively when progress is made in the electoral process. In addition, despite the fact that the EU underlines its preparedness to continue support for democratization, democracy assistance was often narrowed down to electoral assistance during the period of aid suspension. In conclusion, contrary to democracy assistance, political conditionality fails to take into account the specific situation in the partner countries, thus following a 'one-size-fits-all' scenario. How can this difference between aid programming and conditionality be explained? In accordance with the principles of ownership and alignment, the programming of development assistance is primarily directed by and/or in agreement with the partner country. Authoritarian regimes mostly have a greater interest in technical development projects than in democracy promotion activities that might endanger their power structure. In addition, prior to the entry into force of the Lisbon Treaty, within the EU it was primarily the European Commission that was responsible for aid programming.⁴⁵

⁴⁵ The European Commission was responsible for aid programming, but Member States representatives had to give their approval for programmes larger than EUR 8 million through the EDF committee. See P. Holden, *In Search of Structural Power. EU Aid Policy as a Global Political Instrument* (Farnham: Ashgate Publishing, 2009), 133.

The European Commission's DG Development's strong focus on development and poverty reduction could make it more prone to incorporate the principles of international development cooperation in its programming.⁴⁶ In contrast, the main decisions regarding aid suspension and resumption are made by the EU with the Council having the last word. Article 96 is a 'last resort', and it is therefore difficult to get the Member States on one line. In the case of a *coup d'état*, the situation is so clear-cut that it is easier to agree on the necessity of the instrument. *Coups d'état* or fraudulent elections are more visible than problems in the justice sector or individual human rights abuses. Moreover, considerations of effectiveness might play a role: transition regimes set in place after a coup are often eager to be legitimized internationally and are therefore more open to cooperate with the EU.⁴⁷ In conclusion, the difference in decision-making procedures might explain that EU democracy promotion in sub-Saharan Africa is both broad and narrow.

⁴⁶ M. Carbone, *The European Union and International Development* (Abingdon/Oxon: Routledge, 2007), 48–49.

⁴⁷ C. Portela, *supra* n. 39, at 142–144.

AIMS

The aim of the *Review* is to consider the external posture of the European Union in its relations with the rest of the world. Therefore the *Review* will focus on the political, legal and economic aspects of the Union's external relations. The *Review* will function as an interdisciplinary medium for the understanding and analysis of foreign affairs issues which are of relevance to the European Union and its Member States on the one hand and its international partners on the other. The *Review* will aim at meeting the needs of both the academic and the practitioner. In doing so the *Review* will provide a public forum for the discussion and development of European external policy interests and strategies, addressing issues from the points of view of political science and policy-making, law or economics. These issues should be discussed by authors drawn from around the world while maintaining a European focus.

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