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## Democracy promotion through functional cooperation? The case of the European Neighbourhood Policy

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This contribution explores whether and under what conditions functional sectoral cooperation between the EU and the countries of the European Neighbourhood Policy (ENP) promotes democratic governance. In an analysis of four countries (Jordan, Moldova, Morocco, and Ukraine) and three fields of cooperation (competition, environment, and migration policy), we show that country properties such as the degree of political liberalization, membership aspirations, and geographic region do not explain differences in democratic governance. Rather, sectoral conditions such as the codification of democratic governance rules, the institutionalization of functional cooperation, interdependence, and adoption costs matter most for the success of democratic governance promotion. We further reveal a notable discrepancy between adoption and application of democratic governance in the selected ENP countries that has not been remedied in the first five years of the ENP.

**Keywords:** democracy promotion; democratic governance; European Neighbourhood Policy; European Union; functional cooperation; Newly Independent States; Middle East and North Africa region; qualitative comparative analysis

### Introduction

The European Neighbourhood Policy (ENP) is a strategy for the progressive approximation of non-member states to the European Union's *acquis communautaire* through their association with the EU.<sup>1</sup> The fact that the relations with the neighbouring countries are based on the EU's system of rules and regulations opens new perspectives for the study of democracy promotion. Having been designed by and for democratic states, these rules often embody norms related to transparency, participation, or accountability that cannot be taken for granted

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in (semi-)authoritarian states or countries in transition.<sup>2</sup> In this contribution, we explore the governance model of democracy promotion outlined in the introduction to this Special Issue<sup>3</sup> and ask how far and under which conditions the EU is effective in transferring such embedded democratic governance norms to the ENP countries.

One of the main challenges facing the effectiveness of the ENP is posed by the strong heterogeneity of countries to which it applies. While the ENP was originally conceived for the Eastern neighbours of the EU, it was soon expanded to encompass the Southern neighbouring countries as well. The expediency of this decision has always been disputed. Some scholars maintain that the Council 'put[s] apples and pears (Eastern Europe and Southern non-Europe) in the same policy basket', with problematic consequences for implementation.<sup>4</sup> The ENP's Eastern and Southern dimensions are said to 'pull in different directions' because the policy unites countries with opposed membership opportunities under one framework.<sup>5</sup> Although the ENP has never offered a membership perspective, it has been acknowledged from the very beginning that the 'prospect of accession to the EU' is the main difference between the Eastern and Southern neighbourhood.<sup>6</sup>

The Eastern European countries, such as Moldova and Ukraine that have expressed a strong membership aspiration, and, despite the EU's understanding that the ENP should be an alternative to membership, see the ENP as a first step towards accession and try to redefine it accordingly.<sup>7</sup> EU actors recognize the membership aspiration of Moldova and tacitly acknowledge the membership perspective for Ukraine.<sup>8</sup> Thus, although there is no direct membership incentive, we may expect the EU to possess a certain 'leverage' towards the Eastern European countries, inciting them to engage in political reforms in order to gain an officially favourable long-term accession perspective.<sup>9</sup>

The situation is completely different for the Southern neighbours, which do not aspire for membership and for which the ENP does not offer strong incentives for implementation of the agreed commitments.<sup>10</sup> Thus, the prospects of policy change are expected to be much smaller for the Southern neighbours than for the Eastern. This should in particular be the case with regard to governance reforms that transcend the level of pure technical convergence to EU standards. Here, a clear dividing line can be expected between transfer of democratic governance in the East and in the South.

From a governance perspective to democracy promotion, not only the choice of target countries but also the composition of policy sectors covered by the ENP exacerbates its heterogeneity. As a 'composite policy',<sup>11</sup> the ENP combines overarching foreign policy goals with functional, sectoral cooperation across the spectrum of the EU's *acquis communautaire*, from commercial to environmental or migration policy. While we expect this *acquis* to generally incorporate certain democratic governance norms, their concrete manifestation varies from one policy sector to another, as do the institutional modes of cooperation between the EU and the ENP countries in the various sectors.<sup>12</sup> This variation as well as diverging patterns of interdependence and cost/benefit constellations related to

the different policy sectors are, like the country-specific variables mentioned above, expected to impact on the effectiveness of EU rule transfer.

In this contribution, we assess the relevance of country- and sector-related variables for the effectiveness of EU democratic governance promotion in relation to four countries (Moldova and Ukraine to the East, Jordan and Morocco to the South) and in three policy sectors (competition: state aid, environmental: water governance, and migration policy: asylum). The analysis is primarily based on 199 semi-structured interviews conducted in 2007–2009 with governmental and non-governmental actors in the four countries and with Commission officials and complemented by information drawn from the relevant official documents and reports.

The analysis shows that the general country-specific factors (region, membership aspirations, and political liberalization) do not explain variation in the adoption of democratic governance rules. Rather, democratic governance promotion follows a sectoral logic. In the issue areas we studied, diverse combinations of favourable sector properties (codification of democratic governance, institutionalized functional cooperation, interdependence with the EU, and low adoption costs) led the ENP countries to adopt democratic governance rules. The application of these rules, however, has so far been weak. Whereas our study demonstrates that the promotion of democratic governance does indeed work independently of general political conditions and relations, its effectiveness is limited.

### **Democratic governance**

In contrast to the traditional understanding of democratization that focuses on changes in state institutions, the governance approach concentrates on changes in governance rules and practices within individual policy sectors. We define our dependent variable as the transfer of democratic governance rules measured at the level of policy sectors and distinguish between formal rule adoption in domestic legislation and rule application in administrative practices. According to the governance model, changes in both rule adoption and application occur as a consequence of third countries' approximation to the EU *acquis* as well as experience of democratic policy-making gained by policy-makers and experts in the ENP states in interaction with their counterparts in the EU.<sup>13</sup>

We speak of democratic governance rather than democracy in order to capture democratization at the sectoral level and distinguish it from democratic developments at the polity level. Our notion of democratic governance is based on an understanding of democracy defined according to its underlying principles rather than specific institutions embodying them. Since democratic principles are applicable to all situations in which collectively binding decisions are taken,<sup>14</sup> they can be translated into sectoral policy-making. Democratic sectoral governance may thus be achieved by incorporating democratic principles into administrative rules and practices even within a non-democratic polity. We define sectoral governance with reference to 'how the rules of the political game are managed'.<sup>15</sup> In this sense, democratic

governance is similar to good governance.<sup>16</sup> The latter, however, refers mainly to the effectiveness of governance and need not be democratic.

Our concept of democratic governance consists of three dimensions: transparency, accountability, and participation.<sup>17</sup> *Transparency* refers both to access to issue-specific data and to governmental provision of information about decision-making. *Accountability* concerns public officials' obligation to justify their decisions and actions, the possibility of appealing, and sanctioning over misconduct. We distinguish between horizontal accountability that refers to 'all acts of accountability that take place between independent state agencies',<sup>18</sup> such as investigating committees, ombudsmen, and anticorruption bodies, and vertical accountability that emphasizes the obligation for public officials to justify their decisions. Finally, *participation* denotes non-electoral forms of participation such as involvement of non-state actors in administrative decision- and policy-making.<sup>19</sup> These democratic principles are incorporated – but not 'labelled overtly as democracy-focused'<sup>20</sup> – in EU sectoral *acquis* and policy programmes towards the neighbouring states. They may take different forms in different sectors.

It should be noted that an increase in democratic governance cannot be a real substitute for democratic transformation proper and that rules pertaining, e.g. to transparency provisions in environmental legislation or to independent judicial review in asylum policy are only small drops in the ocean of institutional provisions constituting a democratic order. What is more, some of these provisions may, as with asylum policy, represent low minimum standards from the perspective of liberal democracies. Nevertheless, implementation even of minimum standards regarding citizens' access to information, participation in administrative processes, or the accountability of administrative decisions 'requires a process of transformation in those countries where such traditions are lacking',<sup>21</sup> and may constitute one step within a broader democratization of state and society.

### **Determinants of democratic governance transfer**

The governance model suggests that the transfer of democratic governance provisions to ENP countries will be influenced by both country-specific properties and sector-related variables. The following sections discuss the two sets of explanatory factors in detail. Table 1 summarizes country and sectoral properties.

#### ***Impact of country properties***

We identify two main country properties that may have an impact on democratic governance transfer: membership aspiration and political liberalization. Studies have shown that a certain degree of prior *political liberalization* is needed in order to effectively foster domestic democratization processes.<sup>22</sup> For instance, the existence of an active civil society and decentralized decision-making structures is required so that sub-governmental administration officers implement the provisions on participation as one of the aspects of democratic governance. In relation to

Table 1. Operationalization of explanatory variables.

Variables	Operationalization	
<i>Country properties</i>		
Membership aspiration	Present	ENP country aspires joining the EU
	Absent	ENP country is not interested in joining the EU
Political liberalization	Present	Medium level of citizen participation and political freedoms
	Absent	Low level of citizen participation and political freedoms
<i>Sector properties</i>		
Codification	Strong	Democratic governance elements are incorporated in and specified by both EU <i>acquis</i> and international rules
	Medium	Democratic governance elements are incorporated in and specified by EU <i>acquis</i> or international rules
	Weak	Democratic governance elements are incorporated in EU <i>acquis</i> or international rules but require further specification
Costs of rule adoption	High	Rule adoption diminishes the government's domestic power base
	Medium	Rule adoption diminishes the power base of the sectoral authorities
	Low	Rule adoption has marginal consequences for the power of the government and the sectoral authorities
Institution-alization	Strong	Existence of both bilateral and EU-controlled regional fora dealing with the relevant rules
	Medium	Only EU-third-country bilateral fora dealing with the relevant rules
	Weak	Only third countries' fora, not controlled by the EU
Interdependence	Strong	ENP state perceives to be more or equally dependent on the EU in solving its sectoral problems
	Medium	ENP state perceives to be less dependent on the EU than <i>vice versa</i> or more dependent on other external actors than the EU in solving its sectoral problems
	Weak	No reliance on the EU in solving sectoral problems

democratic governance, a minimal degree of political liberalization may serve as a precondition for establishing horizontal transgovernmental ties of functional cooperation between public officials in an ENP state and their EU counterparts.

Incentives offered by the EU to the ENP countries range from enhanced cooperation on economic issues, including a stake in the internal market, to sectoral enticements, such as favourable visa regimes. In this, the ENP largely resembles the enlargement strategy.<sup>23</sup> Although the ENP lacks the biggest incentive the EU can offer, a membership perspective, several ENP states aspire joining the EU nevertheless. Such *membership aspiration* might have an impact on rule adoption because of the perceived low credibility of the EU's refusal to open accession

negotiations. Some ENP countries are 'not taking no for an answer' and therefore 'may go ahead with adoption of EU standards'.<sup>24</sup>

We hypothesize that the effectiveness of democratic governance transfer increases (H1) the more the ENP state strives for EU membership irrespective of actual offer, and (H2) the higher the degree of political liberalization of this state is.

### *Impact of sectoral properties*

The governance model of external democracy promotion follows an institutionalist perspective, according to which the properties of cooperation in sectors have an impact on rule transfer. We identify four sectoral properties as relevant for democratic governance promotion: codification of democratic governance provisions, costs associated with the adoption of democratic governance rules for country elites, institutionalization of transgovernmental cooperation in a particular sector, and sectoral interdependence.

*Codification* is about the incorporation of democratic governance provisions in the EU *acquis* and/or international conventions and rule determinacy. The expected impact of this variable is based on the observation that 'the way in which EU rules are communicated and transferred to the non-member states'<sup>25</sup> influences the likelihood of being adopted by them. We expect that adoption is more likely, if (i) democratic-governance provisions are perceived as being legitimate by virtue of incorporation in both EU *acquis* and international conventions<sup>26</sup> and (ii) they are clear and precise enough to qualify as templates without considerable adaptation to the context of third countries.<sup>27</sup> High sectoral *adoption costs* occur if adoption of democratic governance provisions is expected to diminish the government's domestic power base.<sup>28</sup> Medium adoption costs occur when the power base of sectoral authorities is diminished but the central government is not directly affected.

*Institutionalization* concerns formalized transgovernmental policy cooperation between the EU and ENP states. We expect that the more the institutionalized sector-specific policy cooperation with the EU is, the more likely the third countries are to adopt EU democratic governance provisions. Enhanced transgovernmental cooperation exposes sectoral officials to the practices of democratic governance, thus facilitating rule adoption. In weakly institutionalized sectors, only regional frameworks of cooperation without EU engagement exist. Medium institutionalization characterizes bilateral channels of policy cooperation with the EU. Strongly institutionalized sectors enjoy formalized transgovernmental cooperation in both bilateral and EU-controlled regional fora.

Finally, *interdependence* refers to a cooperating party's conviction that sector-specific problems can be solved in collaboration with the EU rather than domestically or in collaboration with other external parties.<sup>29</sup> As a form of external governance, the ENP can be understood as the EU's strategy of managing interdependence with its neighbouring countries. Following the power-based explanation of external governance, we expect that EU democratic governance

promotion through the ENP is more likely to have an impact when EU–third country relations are asymmetric in favour of the EU.<sup>30</sup> At the same time, the impact of democratic governance promotion is constrained when the target country is facing strong interdependence with another third country<sup>31</sup>. We adopt the concept of sectoral interdependence from Keohane and Nye who argue that ‘patterns of outcomes and distinctive political processes are likely to vary from one set of issues to another’.<sup>32</sup>

We hypothesize that (H3) the stronger the codification is and (H4) the more an ENP state is involved in transgovernmental networks, the higher the likelihood of successful rule transfer is. The positive impact of cooperation in transgovernmental networks, however, may be offset by other sector-specific factors. The relevant hypotheses are: (H5) the higher the expected adoption costs of the third country are and (H6) the less sectoral interdependence favours the EU, the less likely EU rule transfer is.

### **Democratic governance promotion in the neighbourhood**

The remainder of the contribution presents the results of our empirical analysis of functional cooperation between the EU and four ENP countries in three policy sectors. We start with the impact of country properties on rule adoption and substantiate the selection of countries chosen for the case studies. We then turn to the sectoral perspective and introduce our choice of policy sectors. The hypotheses regarding the impact of sectoral variables on democratic-governance promotion are discussed for each sector. Next follows the presentation of our findings on rule adoption and application in the selected countries and policy sectors. We conclude with a comparative analysis of the impact of country- and sector-related characteristics on democratic governance promotion in the EU neighbourhood.

### ***Country-specific factors in the EU neighbourhood***

For our empirical study, we selected four ENP countries, two from the Eastern (Moldova and Ukraine) and two from the Southern neighbourhood of the EU (Morocco and Jordan). These countries are among the most active and advanced participants in the ENP and are characterized as ‘willing partners’<sup>33</sup>. At least until the 2011 revolutions, within their respective regions, these countries were the most politically liberalized. At the same time, Moldova and Ukraine enjoy substantially higher levels of *political liberalization* than Jordan and Morocco. The 2008 ‘Voice and Accountability’ Governance indicator assigned Moldova a liberalization score of  $-0.27$  and Ukraine a score of  $-0.03$ , both of which we regard as medium. For Jordan and Morocco, the scores were  $-0.71$  and  $-0.70$ , respectively, which we can characterize as low.<sup>34</sup>

As regards *membership aspiration*, there is, again, a clear difference between the Eastern and Southern neighbours. Whereas the former seek to join the EU eventually, the latter are not pursuing the strategy of integration with the EU. Moldova

and Ukraine, as Eastern European countries, are in geographical terms eligible for EU membership. Despite the fact that the EU has so far failed to offer such a perspective, both countries aspire to join the EU.<sup>35</sup> Moldova set up a National Commission for European Integration that elaborated and submitted to the European Commission the Concept of the Integration of Moldova into the EU. Moreover, it transformed the Foreign Ministry into the Ministry of Foreign Affairs and European Integration. As for Ukraine, in January 2005, newly elected President Yushchenko declared Ukraine's membership in the EU as a strategic goal. In contrast, neither Jordan nor Morocco wants to join the EU. In 1987, Morocco sought membership in the European Economic Community, but predominantly for economic reasons. Today, the ENP offers Morocco a stake in the EU internal market without political-institutional integration, which is a very attractive option for the country.<sup>36</sup>

Based on our hypotheses H1 and H2, we expect that Moldova and Ukraine will be more likely to adopt democratic governance provisions than Jordan and Morocco, since they enjoy higher degree of political liberalization and aspire to EU membership. If in our empirical analysis we do not find supportive evidence for these hypotheses, the relevance of country-specific explanatory factors will be challenged.

### ***Sector-specific factors in the EU neighbourhood***

The selection of the three sectors – environment, competition, and migration – was guided by the strength of codified democratic-governance provisions. In the field of environment, *codification* is strong, because both EU environmental *acquis* and international conventions provide the most developed democratic governance templates. On the issue of water management, a number of EU directives, including the 2000 Water Framework Directive, provide a strong *acquis*, complemented and reinforced by the Aarhus Convention of 1998. For competition policy, codification of democratic governance is weak: *acquis* provisions are tailored to EU institutions and are not suitable for third countries. While in the EU, the European Commission acts as an implementing authority, it is independent national bodies that have to deal with the issue of state aid in non-EU states.<sup>37</sup> Moreover, EU provisions on state aid are not backed by international agreements. Finally, asylum policy in the migration sector is moderately codified. Democratic-governance provisions are relatively strong, but they mainly originate in international conventions and are hardly present in the EU *acquis*.

Whereas codification is the same for all countries in one sector, the remaining three sectoral variables – institutionalization, interdependence, and costs of rule adoption – may vary across countries. In the field of 'competition', *institutionalization* of cooperation with the EU is moderate in all four countries. In Moldova, the issue of state aid is regularly discussed in the subcommittee on financial, economic, and statistical issues. A similar bilateral subcommittee deals with the issue in Ukraine. Although no further specific institutional arrangements exist in either

country, expert cooperation on legislative issues proceeds on an *ad hoc*, but relatively regular basis. In both countries, the EU is actively present as an advisor at all stages of policy elaboration, particularly through Technical Assistance to the Commonwealth of Independent States projects and Technical Assistance and Information Exchange seminars. Likewise, in Morocco, the state aid issue receives attention in the context of the ongoing Twinning project that focuses on daily competition practices. In Jordan, too, the EU used to be actively present as an advisor at various stages of legislative process, in particular in the framework of the Euro-Jordanian Action for the Development of Enterprise programme (EJADA), which was active in 2000–2006, and a Twinning project monitoring the implementation of legislation, which largely failed. Presently, the issue is rarely addressed in the relevant subcommittee.

*Interdependence* is high except in EU–Jordan relations. The EU is a major trade partner for all four countries and alignment with EU competition rules is highly relevant for improving their access to EU markets. Whereas trade relations with Moldova, Morocco, and Ukraine are asymmetric in favour of the EU and not balanced by other partners, Jordan preserves official neutrality in its cooperation with Europe, the USA, and the conservative Gulf States.<sup>38</sup>

*Costs of rule adoption* in the competition sector are uniformly high. In all four countries, the issue of state aid is highly sensitive in domestic politics due to the vested interests of political and business elites and unwillingness of the state to give up its power to intervene in business practices.

### *Environment*

In the field of water management, the two Eastern and two Southern ENP countries also display similar values on sectoral properties. Cooperation with the EU is strongly *institutionalized* in all four cases. Moldova and Ukraine are part of several EU-led frameworks of cooperation on water, particularly the Eastern Europe, Caucasus and Central Asia component of the EU Water Initiative (EUWI), including national dialogue, and the EU-sponsored Danube–Black Sea Task Force (DABLAS). Jordan and Morocco take part the Mediterranean component of the EUWI and were members of the Short- and Medium-Term Priority Environmental Action Programme. At the bilateral level, a large project on water – *Al-Meyyah* – is financially supported by the EU and implemented by the predominantly EU-funded Programme Management Unit within the Jordanian Ministry of Water. Jordan also benefited from the LIFE 99/00 project ‘environmental law enforcement’ supporting changes in the environment protection law, and Morocco took part in the Twinning project on harmonization of environmental legislation.

*Interdependence* with the EU is high for Moldova, Morocco, and Ukraine, and medium for Jordan. As a downstream country at the Danube’s estuary, Moldova theoretically has a stronger interest in cooperating with the EU than *vice versa*. At the same time, given the inherently transboundary nature of water-related

problems, the EU is one of the main drivers and financiers of environmental cooperation in the region. Ukraine/Morocco and the EU are mutually dependent on cooperation on solving problems with local water and in the context of the Black Sea and the Mediterranean Sea, respectively. Ukraine's aim of approximation to the EU's water *acquis* makes the EU the main external partner, although the country also collaborates with the United Nations Development Programme and Russia, with which the country shares river basins. Dealing with water scarcity, Jordan relies on a number of external cooperation partners, which makes it less dependent on the EU. Besides the EU, it cooperates with the German technical cooperation agency Gesellschaft für Technische Zusammenarbeit, the Japan International Cooperation Agency, and the United States Agency for International Development.

*Adoption costs* in the environmental sector are medium in all countries. In Moldova, the issue of water governance is not politically sensitive at the domestic level, but there is reluctance of sectoral policy-makers to implement the rules of democratic governance due to fear of power and information loss. Similarly, in Ukraine, '[c]orruption and mismanagement are among the main factors that have an adverse impact on access to environmental information'.<sup>39</sup> Introduction of democratic governance rules is associated with a loss of discretion and private benefits for sectoral officials. Likewise, in Jordan and Morocco, sectoral elite corruption hinders sustainable water management as these elites perceive this as conflicting with economic development and its water-intensive investments. In both countries, economic development is often prioritized over environmental considerations, in particular as regards tourism and agriculture.

### *Migration*

With respect to asylum policy, Moldova, Morocco, and Ukraine enjoy the same sectoral properties. Jordan, however, stands apart due to its exceptional exposure to consistent migratory waves since the outset of the Arab-Israeli conflict.<sup>40</sup> *Institutionalization* of policy cooperation with the EU is stronger in Eastern Europe than with Morocco, where we attribute a medium value, and Jordan where it is low. In Moldova and Ukraine, cooperation on asylum policy is regionally well institutionalized through the Söderköping and Budapest processes, networks where information and best practices of EU asylum policy are shared. Moreover, Moldova and Ukraine cooperate with the EU's agency for the management of cooperation at the external borders FRONTEX. In this framework, border guard experts from the EU member states liaise with their counterparts from third countries. Specialized training of Moldovan border guard and migration officers is also undertaken by the International Organization for Migration Moldova. In Ukraine, cooperation on migration has been based on separate Action Plans since 2001 and proceeds in addition through subcommittee and scoreboard meetings. EU–Morocco cooperation on asylum is formalized as a working party as part of the Association Agreement. Yet, interviews with the responsible officials in the

EU's Rabat delegation revealed that cooperation is mainly informal due to Morocco's reluctance. EU's engagement in asylum policy in Jordan consists only of limited financial support of the United Nations High Commissioner for Refugees (UNHCR), as part of the joint financial and technical assistance to third countries in the areas of migration and asylum (AENEAS) project on the resettlement of Iraqi refugees. There is no actual policy cooperation.

*Interdependence* is medium in the EU's asylum cooperation with Moldova, Morocco, and Ukraine. Moldova is a transit country for migration flows into the EU, which makes the EU interested in establishing an adequate asylum system in Moldova. However, large-scale labour migration of Moldovan citizens to the EU endangers the country's socio-economic development. Therefore, Moldova is willing to make concessions to the EU on these issues.<sup>41</sup> Likewise in Ukraine, another transit country: limited capacity of the Ukrainian Migration Services to handle asylum issues<sup>42</sup> makes them dependent on external support. Morocco is currently a transit country for incoming migration flows in the EU. The number of asylum seekers in Morocco itself is, however, likely to increase due to more adequate protection and more restrictive EU regulations. Interdependence is therefore considered medium. Jordan and the EU do not depend on each other in solving asylum-related issues.

Sectoral *adoption costs* for the asylum policy are medium in all four countries. In Moldova, asylum policy is structurally and politically under-prioritized due to perceived non-importance, compared with problems caused by outward migration, such as trafficking in human beings. Furthermore, there is reluctance of police-trained policy officers to implement a human-rights-oriented approach to asylum, largely resting on democratic governance provisions. In Ukraine, granting asylum to refugees and taking back irregular migrants might be more unpopular than costly because foreigners are often seen as being the root of problems such as violence and illnesses.<sup>43</sup> Furthermore, the establishment of a central agency dealing with asylum and migration issues that would make procedures more transparent and enhance accountability has been delayed for many years among others because of several agencies' fears of loss of resources.<sup>44</sup> Disputes about the creation of the State Migration Service eventually led to the collapse of the Ukrainian asylum system in 2009. Asylum presents a politically very sensitive topic in Jordan, in particular because of its large share of Palestinian refugees and the proximity to other persistent conflicts regions such as Iraq. Access to the 1951 United Nations Convention or enacting national law that respond to the international standards is perceived as being too costly by the current government. In Morocco, migration is seen as the issue of internal security. The Ministry of Interior, responsible for migration and asylum policy, is unlikely to even partially transfer its power to non-state actors such as the UNHCR.<sup>45</sup>

Based on our hypotheses H3 and H4, we expect higher values of codification and institutionalization to be associated with a higher likelihood of successful rule transfer. In line with H5 and H6, we further expect that the positive impact of

cooperation in transgovernmental networks might be impaired by high adoption costs and weak sectoral interdependence.

### ***Democratic governance in the EU neighbourhood***

#### *Eastern neighbourhood I: Moldova*

In all three sectors, Moldova has reached a medium level of rule adoption. Moreover, prepared legislation will, if adopted, significantly strengthen democratic governance provisions, thus targeting high degree of rule adoption in the future. Relatively successful rule adoption is, however, not matched by rule application that remains weak.

In the field of *competition*, the Law on the Protection of Competition 1103-XIV of 2000 set out a general framework and established a legal basis for an independent competition authority, the National Agency for the Protection of Competition (NAPC). The law, however, did not enter into force until 2007.<sup>46</sup> Progress in the implementation of the law and the inception of the NAPC was triggered by the EU.<sup>47</sup> The newly established NAPC, with participation of EU-affiliated experts, drafted an amended competition law that passed a concordance check for compatibility with EU directives at the Centre for Harmonization of Legislation. The law received a parliamentary approval in 2008, but was vetoed by the president. Currently, a new competition law is under preparation at the NAPC, to be finalized by 2011.<sup>48</sup> In 2008, a draft of a new law on state aid compatible with EU practices was prepared by the NAPC in consultation with international experts. It is expected to introduce the principles of transparency and accountability into Moldovan legislation on state aid by affording the NAPC with broad competences in receiving information about aid from all state agencies, investigate possible violations, approve sanctions and apply to court. However, the law is still under governmental examination.<sup>49</sup>

Moldova was one of the first countries to ratify the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in *Environmental* Matters in 1999. The 2000 Law on Access to Information 982-XIV translated the provisions of the Convention into domestic legislation, not only with respect to environmental issues, but also for all governmental policy-making. However, 'the requirements of the Aarhus Convention continue not to be fully incorporated into [environmental] legislation'.<sup>50</sup> Furthermore, the observance of the Convention's provisions remains problematic. While the EU notices some progress in Moldova's efforts at increasing transparency of environmental issues,<sup>51</sup> better openness seems to be a goal in itself and does not serve improving accountability. There is little, if any, participation of the public in legislative and policy-making processes in Moldova. For instance, whereas engagement of non-state actors and stakeholders in frameworks such as the DABLAS is provided by Moldovan policy-makers as an example of public participation, no comparable scheme exists for national policy programmes. The main law regulating water resources in Moldova, the Water Code 1532 from 1993, having survived

several amendments, did not acquire the provisions reflecting Moldova's obligations under the Aarhus Convention, as well as those reflected in the ENP Action Plan. A new law on water is currently being drafted by the Ministry of Ecology and Natural Resources to enable the application of the EU directive regulating water management policy. Among others, the proposed law contains provisions on public participation in policy-making (Art. 94).

The preamble to the Law on the Status of Refugees 1286-XV from 2002 explicitly states that the law is to bring domestic legislation on *asylum* in line with internationally recognized standards. The ENP Action Plan encourages further efforts in this direction (Art. 46). Already the first ENP progress report acknowledged substantial progress.<sup>52</sup> The recent amendments to the law established the main principles of a human rights approach to refugees and asylum seekers, exhaustively covering the application of the principles of transparency, accountability and participation, such as fair consideration of applications for asylum, provision of exhaustive information about procedures, possibilities for appeal and contacting the UNHCR representative. Yet, the implementation of legislation commended by the EU is a major problem. The main concern is the non-application of the human-rights approach by the Moldovan migration and border control authorities. These principles are almost exclusively implemented by international organizations, such as the IOM and the UNHCR, and Moldovan non-governmental organizations (NGOs) supporting refugees and asylum seekers. Moldova has no national centre for temporary accommodation of irregular migrants, asylum seekers and refugees. The Centre for Illegal Migrants built by the IOM in 2008 and financed particularly through EU programmes was not operational, for the absence of a normative framework in legislation, until June 2009.

### *Eastern neighbourhood II: Ukraine*

Ukraine displays similar developments as Moldova with regard to the transfer of EU rules of democratic governance, both with regard to rule adoption, where it even slightly lags behind Moldova, and rule application.

As to *competition*, there have been several setbacks regarding the legislative approximation to EU rules on state aid. In 2004, a draft law which was closely modelled on EU *acquis* provisions was rejected by the Parliament.<sup>53</sup> In 2007, the drafted Law on Protection of Economic Competition No. 3263, which had been amended with the aim of introducing provisions on state aid control, also failed in Parliament. Without an appropriate legal framework, the Ukrainian competition authority 'is not provided with the adequate authority required for the independent supervisory authority to exercise the control on state aid'.<sup>54</sup> The present system of granting aid is thus not transparent. Participation and accountability are low. Until the expiration of the Action Plan, no progress has been achieved in the field of state aid.<sup>55</sup>

Ukrainian *environmental* legislation has included provisions on access to environmental information, participation and accountability for many years. Scholars acknowledged a decade ago that '[a]lmost all laws connected with environmental protection and natural resources usage contain the principles of public participation in environmental decision making and other citizens' rights'.<sup>56</sup> After Ukraine became a member of the Aarhus Convention, several laws have been amended accordingly, although some shortcomings remain. Regarding the legislation referring to water issues, the Water Code No. 213/95-VR from 1995 and the law 'On Drinking Water and Drinking Water Supply' 2918-III from 2002 incorporate democratic governance provisions of the EU Water Framework Directive.<sup>57</sup> The result of reforms in the sphere of environmental and in particular water governance can be described as mixed. On the one hand, there are some positive judgements regarding progress in public involvement and access to environmental information.<sup>58</sup> For example, NGOs were involved in the drafting of the Drinking Water Programme of Ukraine for 2006–2020.<sup>59</sup> On the other hand, this does not mean that the situation is satisfactory. Despite the quite developed legislation, implementation remains 'sporadic'.<sup>60</sup> Access to justice is guaranteed by the law but in practice remains a problem.

*Migration* and asylum policy in Ukraine is strongly based on the Law on Refugees 2557-III from 2001. This law has some major shortcomings, especially with respect to the accelerated asylum procedure because this provision is often used to reject claims without substantive investigation. Furthermore, there are limitations to transparency and participation, since '[i]t does not provide access for legal specialists of NGOs or UNHCR to refugees' individual files, or for refugees to have legal representation during refugee status determination (RSD) interviews with the Migration Services'.<sup>61</sup> These legal shortcomings have implications for rule application. UNHCR concluded that the 2005 amendments to the Refugee Law resulted in more arbitrary rejections. When applications are rejected as 'manifestly unfounded', reasons are not provided in the written notifications (accountability). UNHCR also faces problems of getting access to the files of asylum seekers (transparency).<sup>62</sup> Similarly, lawyers from relevant NGOs have difficulty to meet detained asylum seekers (participation). The latter, in turn, often do not receive adequate information by officials about the RSD procedure.<sup>63</sup> At the same time, the creation of a consultative Civil Council at the State Committee for Nationalities and Religion as the responsible authority in 2008 led only to a temporary increase of participation. Consultations stopped in 2009. In 2010, the European Commission diagnosed the collapse of the Ukrainian asylum system: 'there is no longer any entity competent to take binding decisions in asylum matters'.<sup>64</sup>

### *Southern neighbourhood I: Jordan*

Jordan has made very limited progress with democratic governance rule adoption and application, compared to Moldova, Morocco, and Ukraine. Draft legislation

can be expected to make changes in the competition and environmental sectors, provided it is adopted. Given the absence of legal provisions, it is not surprising that rule application is low. It took Jordan two failed attempts in 1996 and 1998 until the *Competition* law No. 33 was finally adopted in 2004. The law established the Committee for Competition Matters, which – headed by the responsible minister – is a merely consultative body. Its members include representatives of regulators, consumer organizations, and experts on competition in specific sectors, which are, however, selected according to obscure rules (participation). The Competition Directorate embedded within the Ministry of Industry and Trade is also not a separate autonomous entity. The revision of the law, which is under preparation, would transform it into an ‘independent’ Commission, i.e. the judicial procedure would no longer be mediated by the minister. However, the 2004 law grants any legal person the right to directly address the court (Art. 17A). It further states that the Directorate must publish an announcement regarding any petition, though at the expense of the applicant, and the decision in two daily newspapers (transparency; Art. 10D, 11B). This announcement ‘shall’ include an invitation to any interested party to present its opinion (participation). The competition law, however, does not present any progress in the specific issue of state aid.<sup>65</sup> Implementation of the 2004 law’s provisions suffers mainly from the lack of independence of the body tasked with administration, the lack of adequate knowledge among lawyers, judges, and prosecutors, and the power of big companies that dictate their own terms.<sup>66</sup> Only few cases were referred to the courts by the Directorate since 2004 but no decisions were hitherto taken (accountability).<sup>67</sup> There is strong opposition among the ruling elite to establish the Directorate as a separate autonomous commission. As to state aid, the data collected under the budget law continue to fall short of international standards in terms of transparency, disclosure, and comprehensiveness.<sup>68</sup>

Although a number of *environmental* laws exist and water issues are salient in water-scarce Jordan, preparation of legislation on water *per se* started with the new water strategy officially endorsed in 2009. Primary legislation is hitherto a by-law issued under the 1995 Environment Protection Law (and its amendments 2003 and 2006), which does not contain any governance provisions. Still, some improvements of access to information and participation can be observed.<sup>69</sup> For instance, the water strategy states that the ‘development of appropriate legislation will require regular and systematic consultation with a diversity of stakeholders and water users’.<sup>70</sup> Until now no (independent) authority exists that supervises water management (accountability). Generally, many by-laws implementing the adopted laws are missing and informal networks based on family ties jeopardize rules on sound water management. Responsibilities overlap between water institutions and procedures of accountability do not exist. A top-down approach is applied: stakeholders are normally not involved in decision-making (participation) and the right to information is confused with education and awareness campaigns.<sup>71</sup> The horizontal 2008 access to information law is too restrictive to be effective.<sup>72</sup>

Due to its exposure to consistent *migratory* waves since the outset of the Arab-Israeli conflict (see, e.g. Note 38), Jordan has not endorsed the 1951 UN convention on refugees and the 1967 protocol. The asylum procedure is deferred to the UNHCR which operates on the basis of the 1998 Memorandum of Understanding (MoU), and predominantly concerns Iraqi refugees and excludes Palestinians.<sup>73</sup> Although Article 21 of the 1952 Jordanian constitution guaranteed the right to asylum for political refugees, the Law on Residence and Foreigner Affairs No. 24 from 1973 does not include any provisions on asylum. Deportees can demand judicial review of their decision before court based on law 19 of 1992 on the high court of justice and the MoU, but only few do so and if, it is very unlikely to succeed (accountability). The MoU is not respected by the Jordanian government. Iraqis are regularly deported, independently of whether they are registered by the UNHCR or not, and are often already rejected at the frontiers without giving them the opportunity to make refugee claims.<sup>74</sup>

#### *Southern neighbourhood II: Morocco*

Although belonging to the EU's Southern neighbourhood, Morocco stands farther apart from Jordan than from Moldova or Ukraine with regard to rule adoption. In fact, Moldova, Morocco, and Ukraine display the same medium level of democratic-governance rule adoption. Likewise, Morocco displays the same 'gap' between formal adoption of democratic governance provisions and their implementation as the Eastern neighbours. As to *competition* policy, Morocco does not yet possess a noteworthy state aid control regime. The legal basis of its competition policy is the 1999 Law 06-99 on Freedom of Prices and Competition. The Prime Minister is the sole authority that may issue rulings on anti-competitive practices. His decisions can, however, be challenged before an administrative court (accountability). The Competition Council may give the Prime Minister non-binding advisory opinions on all draft legislation concerning state aid allocation (Art. 16). Nominated by the King, the Council president enjoys direct royal backing, which makes it a less reliant authority.<sup>75</sup> In order to introduce true participation, the revised competition law elaborated as part of a Twinning project foresees that Council and government need to consult interested parties before taking decisions. The revised law also improved provisions on transparency. The competition law is only partially implemented. The Competition Council has been activated in January 2009, but it is still far away from being an independent authority with decision competencies. Progress in transparency is limited to provision of information on the total amount and the distribution of aid in form of annual reports to the Commission.<sup>76</sup> The revised law leaves publication of decisions at the authority's discretion, but grants access to the records. As for participation, even the General Confederation of Moroccan Enterprises is only occasionally consulted by the government, usually after the decision has been made.

EU influence on the creation of a Law on Access to *Environmental Information* (transparency), as well as on policy-specific laws, such as the modification and implementation of the 1995 Law 10-95 on Water is high, in particular as a result of the Twinning project's focus on legal harmonization. With the establishment of the Water and Climate Council, the creation of water basin agencies – local 'petits parliaments de l'eau'<sup>77</sup> – and the development of contractualization,<sup>78</sup> Morocco has developed a participative, consultative and decentralized approach to water management. The 2003 Law on Environmental Impact Studies 12-03 guarantees public access to environmental information (transparency) and the right to appeal (accountability). Still, Morocco's environmental legislation shows several shortcomings. Authorities are not obliged to communicate their decisions, and claimants of appeals do not participate in juridical procedures.<sup>79</sup> As regards participation, the 1995 Law establishes the Supreme Council on Water and Climate, a consultative and non-permanent institution consisting of scientific experts and association representatives and serving as a platform for exchange of ideas.<sup>80</sup> Although the transfer of democratic governance elements to Moroccan environmental legislation has been quite successful, these are hardly applied. Administrative structures, such as the Water Council, are 'empty',<sup>81</sup> and legislation is rarely addressed by implementing decrees. The Law on Access to Environmental Legislation has hitherto not been ratified by the parliament. Participation of non-state actors in environmental decision-making is ceremonial, since they are invited only after the decisions are taken. Information offered to the public takes the form of pre-arranged reports on the state of the environment and public awareness campaigns (transparency).<sup>82</sup>

The legal basis of the Moroccan *asylum policy* is the 1957 'Decree on the Modalities of the Application of the Convention Relating to the Status of Refugees of 1951' (2-57-1256). However, it is not enforced due to the disregard of the legal supremacy of international law.<sup>83</sup> The 2003 Law 02-03 on the Entry and Stay of Foreigners acknowledges the primacy of international Conventions signed by Morocco. Importantly, it also introduces a few articles on refugees and asylum seekers that follow democratic norms and that have been incorporated as response to EU demands.<sup>84</sup> In case of refusal of asylum application, it obliges the authorities to explain their decision (accountability) and inform asylum seekers of their rights (transparency), provide access to a lawyer, and allow contesting the decision before an administrative court. However, it does not specify participation of other relevant actors. Furthermore, the law considerably strengthens the administration's discretionary use of power.<sup>85</sup> The application of the 2003 Law is problematic since without implementing decrees, it did not fully enter into force. Further, Morocco has no national centre for temporary accommodation of illegal migrants, asylum seekers and refugees. To compensate for this, the Moroccan Human Rights Organization opened the Reception and Legal Centre for Refugees. Its effect remains marginal, however, because lawyers and judges are not familiar with international standards and deportations proceed too fast for any juridical procedure to take place.

Table 2. Country characteristics and democratic governance.

	Eastern neighbourhood		Southern neighbourhood	
	Moldova	Ukraine	Jordan	Morocco
<i>Country properties</i>				
Membership aspiration	+	+	-	-
Political liberalization	+	+	-	-
<i>Democratic governance</i>				
Adoption	+/- (+)	+/-	- (+/-)	+/- (+)
Application	-	-	-	-

Notes: Values: high or present, +; medium, +/-; low or absent, -. Values in brackets correspond to draft legislation.

### ***Determinants and success of democratic governance transfer: comparative analysis***

The most striking general finding of our analysis is the ambiguous impact of EU democratic governance promotion (Table 3). On the one hand, there is not a single case of strong application of EU democratic governance rules in the sample, and there are only two cases out of 12 in which some application has taken place. On the other hand, EU policies have a clear impact on the legislative adoption of democratic governance norms. While there has only been one case of strong compliance (Moldovan migration policy), in a clear majority of cases (9 out of 12), some adoption has taken place or is currently on the way. Given that our sample comprises the most favourable ENP countries, we cannot expect EU democratic governance promotion to work better elsewhere. But the variation in rule adoption is worth analysing further.

Our analysis does not support the East–South divide argument. Country properties indicate a clear dividing line between the Eastern and Southern neighbours of the EU: the former should be more successful in adopting and implementing democratic governance rules than the latter. Yet, as our discussion above showed, patterns in both rule adoption and rule application are quite similar across the four countries. Country properties, therefore, do not provide a satisfactory explanation for democratic governance transfer. To demonstrate this finding, we aggregate in Table 2 values for democratic governance in the three sectors under study into one average per country, based on our sectoral findings given in Table 3.

Regarding sector-specific factors, Table 3 shows that the transfer of democratic-governance provisions into domestic legislation of the selected ENP states follows a sectoral dynamic. A comparative analysis reveals that – with the exception of migration policy in Jordan – the selected sectors show similar properties across the four countries. Half of the cases show the same constellation of sectoral conditions and outcomes both in the presence and in the absence of membership aspirations and moderate political liberalization. This finding further undermines

Table 3. Sectoral characteristics and democratic governance.

	Eastern neighbourhood		Southern neighbourhood	
	Moldova	Ukraine	Jordan	Morocco
<b>Competition</b>				
<i>Sector properties</i>				
Codification	-	-	-	-
Institutionalization	+/-	+/-	+/-	+/-
Interdependence	+	+	+/-	+
Costs	-	-	-	-
<i>Democratic governance</i>				
Adoption	- (+)	-	- (+/-)	-
Application	-	-	-	-
<b>Environment</b>				
<i>Sector properties</i>				
Codification	+	+	+	+
Institutionalization	+	+	+	+
Interdependence	+	+	+/-	+
Costs	+/-	+/-	+/-	+/-
<i>Democratic governance</i>				
Adoption	+/- (+)	+/-	- (+/-)	+/- (+)
Application	+/-	+/-	-	-
<b>Migration</b>				
<i>Sector properties</i>				
Codification	+/-	+/-	+/-	+/-
Institutionalization	+	+	-	+/-
Interdependence	+/-	+/-	-	+/-
Costs	+/-	+/-	+/-	+/-
<i>Democratic governance</i>				
Adoption	+	+/-	-	+/-
Application	-	-	-	-

Notes: Values: high or present, +; medium, +/-; low or absent, -. Values in brackets correspond to draft legislation. Note that the signs for 'costs' have been reversed for better comparison: high costs, here -, have a negative impact on adoption.

the East–South divide argument and refutes hypotheses H1 and H2 on the impact of country characteristics.

In contrast, hypotheses H3–H6 find general support for the proposition that sectoral properties affect democratic governance rule adoption. Our analysis generally demonstrates that democratic governance transfer is the more successful, the more strongly its provisions are codified in the sectoral *acquis*, the more institutionalized cooperation between the EU and ENP states is, the more interdependent the parties are, and, finally, the lower adoption costs are for national governments and sectoral authorities. Whenever all four sectoral conditions are at least moderately favourable (medium or high values), which happens to be the case in seven out of our 12 cases, legislation stipulating democratic governance is either adopted

or under way. In contrast, none of the sectoral conditions is individually sufficient or necessary (see Table 4).

## Conclusions

This contribution explored the democratizing potential of transgovernmental sectoral cooperation between the EU and four of its neighbours to the East and South. We argued that the governance model of external democracy promotion, which foresees the transfer of democratic rules and principles as part of policy-problem solutions, is an indirect strategy of fostering democratization in such countries, which resist direct democracy promotion efforts from the outside. We compared democratic governance rule transfer between two countries in the Eastern neighbourhood of the EU (Moldova and Ukraine) and a pair of states in the Southern neighbourhood (Jordan and Morocco) and explored country- and sector-related factors that are likely to facilitate or obstruct successful promotion of democratic governance.

Contrary to the East–South divide argument, we found similar patterns of rule adoption and rule application in all four countries. Both in the East and in the South, we detected a clear discrepancy between rule adoption and rule application: Whereas the EU has been fairly successful in inducing the four ENP countries to adopt legislation in line with democratic governance provisions, these provisions have – at least so far – generally not been implemented.

These commonalities between the Eastern and the Southern neighbours undermine the theoretical expectation about the influence of country characteristics on democratic governance transfer. In contrast, the influence of sector-specific properties is generally supported by the evidence. The absence of high adoption costs, and at least moderate interdependence, codification, and institutionalization, could be associated with actual or potential rule adoption. To predict rule adoption with high confidence, however, all conditions had to be jointly at least moderately favourable.

Can we generalize our results to the rest of the ENP countries? Although low liberalization and the absence of membership aspiration do not seem to present an obstacle to the transfer of *acquis*-based democratic governance elements, the importance of country-related factors cannot be completely ruled out. First, the selected countries comprised the politically most liberal countries in the respective regions at the time of research. While the difference in political liberalization did not matter for this sample, even weaker liberalization in the other ENP countries may well undermine far-reaching cooperation. Furthermore, changes in government, such as those recently experienced in Moldova and Ukraine, may yield not only retrogressions in levels of political liberalization but also a turn away from an EU focus and, despite the relative autonomy of sectoral cooperation dynamics, also declining levels of approximation to EU rules. Second, the comparatively less successful rule transfer in the case of Jordan appears to demonstrate the significance of proximity: Jordan's geographic position leads to less

Table 4. Data and truth table.

	Membership aspiration	Political liberalization	Codification	Institutionalization	Interdependence	Costs	Adoption
MOL COM	1	1	0	1	1	0	1
MOL ENV	1	1	1	1	1	1	1
MOL MIG	1	1	1	1	1	1	1
UKR COM	1	1	0	1	1	0	0
UKR ENV	1	1	1	1	1	1	1
UKR MIG	1	1	1	1	1	1	1
JOR COM	0	0	0	1	1	0	1
JOR ENV	0	0	1	1	1	1	1
JOR MIG	0	0	1	0	0	1	0
MOR COM	0	0	0	1	1	0	0
MOR ENV	0	0	1	1	1	1	1
MOR MIG	0	0	1	1	1	1	1
Memasp	Pollib	Cod	Inst	Interd	Cost	<i>N</i>	Adoption
1	1	1	1	1	1	4	1
1	1	0	1	1	0	2	0/1
0	0	1	1	1	1	3	1
0	0	1	0	0	1	1	0
0	0	0	1	1	0	2	0/1

Notes: The data are arranged as a 'truth table'; that is, each conditional configuration (combination of values of the independent variables) present in the data set is represented in one row together with the associated ('truth') value of the dependent variable 'adoption'. Conditions coded as present (1) when at least medium value in favour of adoption. Adoption coded as present (1) when at least medium and legislation under way.

interdependence with the EU and a less exclusive focus on the EU as a cooperation partner than in the closer neighbours. Liberalization and proximity can be expected to shape the degree of cooperation in general. On the basis of our findings, it can, however, be reasoned that if cooperation is agreed, the extent to which it influences the likelihood of successful promotion of democratic governance depends again on sectoral properties.

In sum, we maintain that the governance model has some potential for encouraging democratic developments in countries where more direct forms of external democracy promotion fail. The analysis clearly shows that democratic governance promotion is a separate model of democracy promotion that functions to some extent independently of general political conditions in the EU's neighbouring countries.

But were the EU to succeed in prompting democratic governance in its neighbouring states, would democratic governance trigger democratization at the polity level? The relationship between democratic governance and democracy is not necessarily bidirectional. On the one hand, empirical studies confirm that democracy is positively associated with democratic governance.<sup>86</sup> First, strong democratic institutions have a constraining effect on corruption and discretionary power of government officials. Second, they ensure the functioning of free media that have a supervisory function over governmental action, thus improving democratic accountability and transparency of policy-making.

On the other hand, there is no conclusive evidence that strong democratic governance in policy sectors leads necessarily to democratization of political institutions. Three scenarios are possible. First, in a neutral 'de-coupling' scenario, legislation containing democratic governance rules may simply remain a dead letter.<sup>87</sup> Governments adopt these rules in order to increase their legitimacy with the EU and other organizations and reap the benefits of international cooperation but will not apply them in practice if they harm vested political, administrative, or economic interests or if implementation is costly. At best, such a strategy of democratic governance promotion might lead to hybrid regimes through 'grafting "modern" liberal forms of governance in certain spheres onto essentially authoritarian structures'.<sup>88</sup> This is the most probable short-term scenario emerging from our case studies. Second, in the negative scenario, external actors may even risk undermining the prospects for further democratic reforms, stabilizing non-democratic political systems and eventually creating the so-called enlightened dictatorships.

Finally, viewed from a more optimistic and long-term perspective, the adoption of the principles of transparency, accountability and participation in sectoral legislation may, if properly applied, be one step in the mobilization of a more vivid civil society and a stronger societal control of state power, both of which would constitute important preconditions for democracy proper. We therefore conclude that while democratic governance is unlikely to – by itself – engender systemic change, it nevertheless plays an important role in preparing the legal and bureaucratic basis upon which eventual transitions towards a new democratic order can draw.

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