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**Democracy between the Lines?**  
**EU Promotion of Democratic Governance via**  
**Sector-specific Co-operation**

Tina Freyburg, Tatiana Skripka and Anne Wetzel

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Tina Freyburg, PhD student, ETH Zurich  
freyburg@eup.gess.ethz.ch

Tatiana Skripka, PhD student, ETH Zurich  
tatiana.skripka@eup.gess.ethz.ch

Anne Wetzel, PhD student, ETH Zurich  
wetzel@nccr-democracy.uzh.ch

NCCR Democracy  
Stampfenbachstrasse 63  
8006 Zurich, Switzerland  
Tel.: + 41 44 634 52 -05/ -15  
Fax: + 41 44 634 52 00

## Contents

<b>Abstract .....</b>	<b>3</b>
<b>Introduction.....</b>	<b>3</b>
<b>1. The Governance Model: Democracy Promotion through Sector-specific Co-operation.....</b>	<b>7</b>
<b>2. Democratic Governance .....</b>	<b>9</b>
<i>2.1. Democracy beyond the State Level.....</i>	<i>9</i>
<i>2.2. The Concept of Democratic Governance.....</i>	<i>12</i>
<b>3. Dimensions of Democratic Governance .....</b>	<b>13</b>
<i>3.1. Transparency .....</i>	<i>15</i>
<i>3.2. Accountability.....</i>	<i>17</i>
<i>3.3. Participation .....</i>	<i>20</i>
<b>Conclusion .....</b>	<b>23</b>
<b>References .....</b>	<b>24</b>

## Abstract<sup>1</sup>

This paper is part of an alternative theoretical perspective on the European Union's democracy promotion.<sup>2</sup> Drawing on authors who have taken an unconventional view on democracy, we develop the concept of democratic governance that allows an assessment of the democratic quality of sectoral governance. The first part of the paper outlines the model in which the EU promotes democratic governance through sector-specific co-operation with neighbouring countries. The second part conceptualises democratic governance. The third and main part discusses the three dimensions of democratic governance: (i) transparency; (ii) accountability; and (iii) participation. Illustrations for these dimensions are provided from the programmes that the EU undertakes in the sectors of competition, environment, labour, and migration and asylum in Morocco, Russia and Ukraine.

## Introduction

In 2003, when the pre-accession dynamics of the European Union's (EU) enlargement with the countries of Central and Eastern Europe were drawing to a close, the EU introduced a new framework for relations with the future neighbours. The strategy that a year later became known as the European Neighbourhood Policy (ENP) was designed with the aim of creating a 'ring of friends', i.e. 'a zone of prosperity and friendly neighbourhood'(European Commission 2003a: 4).<sup>3</sup> The main objectives of the ENP were set as 'promoting reform, sustainable development and trade' (ibid.). Importantly, the strengthening of democracy also found a prominent place in the ENP Strategy Paper (European Commission 2004c) and subsequent

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<sup>2</sup> This perspective is developed within the project on 'Promoting Democracy in the EU's Neighbourhood' led by Frank Schimmelfennig and Sandra Lavenex and undertaken within the Swiss national research programme 'Challenges to Democracy in the 21<sup>st</sup> Century' (NCCR Democracy) funded by the Swiss National Science Foundation (SNSF), see <http://www.nccr-democracy.uzh.ch/nccr>. Financial support by the SNSF is gratefully acknowledged.

<sup>3</sup> Originally, the ENP was meant to cover the Newly Independent States (Belarus, Moldova, Russia and Ukraine) and the Southern Mediterranean countries (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestinian Authority, Syria and Tunisia). Later it was extended to the Southern Caucasus (Armenia, Azerbaijan and Georgia). At the same time Russia declined to be part of the ENP, opting for special relations with the European Union, and the participation of Belarus was suspended by the EU. However, in our project we understand the term 'EU neighbourhood' broadly – i.e. taking into consideration Russia, an EU immediate neighbour that is outside the ENP framework, and the pre-ENP development in the current ENP countries.

country-specific action plans issued by the EU. However, despite the seeming originality of the neighbourhood strategy, its objectives appear quite comparable to the goals pursued by the EU in its policy towards the region prior to the introduction of the ENP. Earlier goals were less ambitious but nonetheless did not bring the desired effect. Therefore, the question persists as to whether and how the EU can succeed in promoting democracy in the countries that previously fell short of the EU's expectations of democratic reforms.

The scholarly literature offers two main models of how external democracy promotion may bear fruit. The first model sees democratisation mainly as a conditionality-induced process (Schimmelfennig 2005; Schimmelfennig, Engert, and Knobel 2003). According to this, 'leverage' model, democratic conditionality is a type of intergovernmental bargaining in which an external actor, the EU, offers certain incentives to a third country in order to make it comply with the imposed requirements for democratic development. The government of the target state makes a decision on whether or not to comply on the basis of cost-benefit calculations – i.e. whether the promised rewards outweigh expected adoption costs.

The second model of external democracy promotion focuses on socio-economic development and socialisation processes. It maintains that democratisation is a multi-step process in which socio-economic development leads to societal pluralism and the emergence of a strong middle class that, in turn, demands political participation and accountability of the government (see Lipset 1981). This 'linkage' model sees the role of an external democratising actor in improving the societal conditions and encouraging bottom-up initiatives, for example by supporting civil society (for applications of this approach to the ENP countries see Jünemann 2002; Raik 2006).

In the EU-neighbouring countries, however, these ideal typical models of external democracy promotion confront challenges. On the one hand, it is argued that since the EU does not offer its main 'carrot' – i.e. a credible membership perspective – to the ENP countries, the strategy of conditionality is unlikely to be successful (see Schimmelfennig 2005; Kelley 2006; Dimitrova and Pridham 2004). On the other hand, the new neighbours of the EU are mostly governed by autocratic or authoritarian regimes and lack a developed civil society, so in the short and

medium term, democracy promotion through civil society does not appear a viable prospect either.

We take a different perspective and suggest that in a situation unfavourable for only straightforward, political strategies of democracy promotion such as conditionality and linkage, the European Union may still impact on democratisation processes in the neighbouring countries by focussing on more indirect ways of democracy promotion. We are interested in finding out whether democratisation may occur in the intensified co-operation between the EU and the ENP countries in functional and technical areas. However, we assume that the transfer of democratic governance at the sectoral level can be successful only for countries with a minimum degree of political liberalisation, for example in terms of interest group mobilisation as well as some opening of governmental processes and structures.

It still remains to be seen whether the EU intentionally pursues such a strategy aimed at democratisation or whether it is an unintended side effect of co-operation with third countries. However, there is evidence that the EU recognises a certain democratising potential of sectoral co-operation within the ENP framework. For example, the European Commission acknowledges that '[g]overnance in the broad sense is central to [... the ENP] action plans, which [...] focus on [...] introducing sectoral reforms (transport, energy, information society, environment, etc.) in order to improve management and encourage the authorities to account for their decisions to those they administer' (European Commission, 2006b: 16). Furthermore, it is stated that '[d]emocratic governance is to be approached holistically, taking account of all its dimensions (political, economic, social, cultural, environmental, etc.). [...] Accordingly, the concept of democratic governance has to be integrated into each and every sectoral programme' – i.e. also in co-operation with external actors (ibid.: 6). In turn, the Council 'underlines that a holistic approach on governance also entails mainstreaming of human rights and fundamental freedoms, good governance and rule of law to all policy sectors' and demands that these 'principles [...] be equally applied to all regions' (Council of the European Union 2006: 3).

Table 1: Models of External Democracy Promotion

	<b>First model: Leverage</b>	<b>Our model: Governance</b>	<b>Second model: Linkage</b>
<b>Target level</b>	Polity	Sector (→ Polity)	Polity
<b>Target actors</b>	Governments	Sub-units of state administration	Societies
<b>Direction of democratisation</b>	Top-down	Horizontal	Bottom-up
<b>Co-operation type</b>	Intergovernmental	Transgovernmental	Transnational

So far the sector-focussed approach to external democracy promotion has not received much attention.<sup>4</sup> This is astonishing for three reasons. Firstly, the literature has already pointed out how the EU extends sectoral governance beyond its member states (see, e.g., Friis and Murphy 1999; Lavenex 2004). However, no analyses of possible democratisation effects have been undertaken yet. Secondly, such analyses can make important contributions to theory building at the intersection of International Relations, EU / European Studies and Comparative Politics, especially transformation studies, and can help to build bridges between these disciplines. Thirdly, important practical conclusions for the external support of democratisation processes could be drawn from such studies.

In our project, we develop the model of democracy promotion via ‘sector-specific co-operation’ (European Commission 2003a: 16), which we call the governance model. The paper contributes to the development of this alternative theoretical perspective by conceptualising the democratic governance that lies at the heart of this approach.<sup>5</sup> Thereby it focuses on the input and output stages of the EU’s promotion of democratic governance in neighbouring countries. The input stage concerns the presence of formal requirements of democratic governance in EU policy programmes, whereas the output stage deals with the provisions taken up in EU-third country co-operation agreements. The project, however, takes a broader perspective and also considers the outcome stage of the promotion of democratic governance.

<sup>4</sup> On the conceptual level, an exception is the approach developed by Morisse-Schilbach and Günther (2005), which deals with democratisation ‘by default’ through the inclusion into functional spaces (*“Aussengrenzräume” der EU*).

<sup>5</sup> The link between democratic governance at the sectoral level and democracy at the polity level is beyond the scope of this paper.

Here outcome refers both to institutionalisation of the EU's requirements related to democratic governance by third states, and actual implementation of the adopted rules and procedures.<sup>6</sup>

The argument proceeds in three steps. We first present the governance model of external democracy promotion. Secondly, we introduce the concept of democratic governance that departs from the traditional, polity level-centred understanding of democracy. Finally, we elaborate on the three dimensions of the concept of democratic governance. Illustrations for the dimensions are provided from the sectors of competition, environment, labour, and migration and asylum in Morocco, Russia and Ukraine.

## **1. The Governance Model: Democracy Promotion through Sector-specific Co-operation**

The European Union has a relatively dense web of relations with its (new) neighbouring countries to the East and South. These relations involve the establishment of functionally oriented transgovernmental policy networks (see Slaughter 2004) based on association agreements, country strategies and ENP action plans, and on issue-specific agreements. Transgovernmental relations are in particular characterised by the creation of networks that can be defined as 'pattern[s] of regular and purposive relations among like government units working across borders that divide countries from another and that demarcate the "domestic" from the "international" sphere' (ibid.: 14). Thus, 'transgovernmental' refers to relations among sub-units of governments – i.e. 'when they act relatively autonomously from higher authority in international politics' (Keohane and Nye 1974: 41). Importantly, the actual work of implementing and specifying functional co-operation agreed at the intergovernmental level between the EU and third state governments is eventually done by actors from lower levels in the state administration. We argue that the thereby developing web of transgovernmental co-operation between the EU and the

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<sup>6</sup> Our distinction between input, output and outcome therefore differs from the traditional understanding of this triad as subsequent stages in the policy implementation process (cf. Easton 1965). Since the changes foreseen by our theoretical model are only long-term, in our outcome stage we primarily focus on formal adoption of principles of democratic governance and only to a lesser extent on their actual use. The latter corresponds to the notion of outcome as defined by Easton.

ENP countries may open the door to profound changes in sectoral governance patterns in these countries.

Indeed, there is evidence that the EU incorporates democracy-related components into its good governance initiatives. According to Youngs, the EU's 'stated aim has been to pursue governance work in a way that facilitates broader democratic enhancement, mostly without such efforts being labelled overtly as democracy-focused' (2001: 363). However, the use of this 'indirect route into political work' (ibid.) is not limited to good governance initiatives and can be found in most policy reform programmes that the EU undertakes in its near abroad.

We distinguish between the democratic elements of substantial and procedural nature. Substantial provisions concern the rights and principles, such as refugee rights in the asylum and migration policy or the right to access information on environmental issues. Procedural provisions, on the other hand, refer to certain modes of governance, for example involvement of non-state actors in decision- and policy-making.

Generally, the EU can promote democratic governance at the sectoral level either through legislation or interaction with third state actors.<sup>7</sup> In the case of promotion through legislation, the change of governance structures would mainly depend on how far a third country adopts the policy and implements it. The promotion of democratic governance through interaction occurs as a side effect of transgovernmental co-operation in which third state actors gradually get to know democratic practices. In this paper, we are mainly interested in the first, legislation-based rule transfer, but in the project we also consider the prospects for the EU's promotion of democratic governance through interaction.

The promotion of democratic governance through legislation relies on mutually agreed plans and agreements that often contain governance criteria such as internal monitoring procedures. As Zaharchenko and Goldenman point out in their study on the Århus Convention, access to information and public participation in the decision-making process threaten traditional policy-making and implementation in authoritarian regimes where 'information may be an official's only asset' (2004: 229) and civil servants see themselves as state servants rather than public servants,

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<sup>7</sup> In both cases the rules promoted by the EU can be based or not based on the *acquis* – i.e. relevant primary and secondary EU legislation. In particular, this may concern minority rights that are not part of the EU's own legislation, but are actively promoted by the EU abroad (see Kelley 2004).



accountable only to the state and not to its citizens (ibid.: 238). Consequently, the promotion of democratic governance via functional co-operation does not in the first place intend to impact on the democratisation processes in the target countries at the polity level. Rather, it is aimed at democratising the decision- and policy-making at the sectoral level. How, then, can democracy be understood and conceptualised in the domains of functional governance?

## **2. Democratic Governance**

### 2.1. Democracy beyond the State Level

Democracy is a contested concept. There exists no conventional definition of what democracy is. Attempts to introduce a generally accepted or most useful / precise definition of democracy have been numerous. The results vary from very generalist, all-embracing definitions – for example, democracy as a political system promoting social justice (see O'Donnell 1995; Held 2006: 259-89) – to narrow or minimalist definitions of the concept – such as democracy as electoral democracy or constitutional democracy (see Schumpeter as quoted in Beetham 1999: 2). What is common to all these definitions is that they conceive of democracy as a political system of states. However, democracy does not need to be a state-centric concept. It can refer to every situation in which collectively binding decisions, or decisions for a collective, are taken (Beetham 1999: 4-5). As such, democracy not only manifests itself in government but may also characterise decision-making processes in any group or association (ibid.).

Although the scholarly literature mainly deals with democracy at the polity level, it is acknowledged that democracy can be analysed at other levels as well. Dahl, for example, emphasises that his analysis of democratisation deals with 'national regimes, that is, regimes taken at the level of the country' (1971: 11-2), but admits that 'some of the analysis could be applied to subordinate levels of political and social organization, such as municipalities, provinces, trade unions, firms, churches, and the like' (ibid.: 12). He notes that casual observation suggests different degrees of participation and different opportunities for contestation in the national government and subordinate governmental and social organisations (ibid.). As he

shows with the example of the then Yugoslavia where the 'attempt [...] to grant a large measure of self-government in subnational units means that the opportunities for participation and contestation are greater in that country, despite the one-party regime, than [...] in Argentina or Brasil', the sub-state units should not be neglected if one wants to obtain a full description of participation and contestation opportunities within a country (ibid.). That Dahl nevertheless does so in his analysis can mainly be attributed to data problems. In that way, he takes a 'pragmatic rather than theoretical' decision to concentrate on the level of polity (ibid.: 13-4).

In the debate on the democratic deficit in the EU some authors put forward a similar argument. Here, it is maintained that 'there is no good reason to use [...] normative standards of [member state democracies] as the measuring rod for assessing the democratic substance of the European polity' (Héritier 1999: 269; cf. also Majone 1998; Bartolini 2005). Therefore, these authors take an unconventional perspective on democracy that comes close to our argumentation regarding the concept of democratic governance. In particular, they shift the focus from institutions, as well as opportunities and limitations that these institutions may pose to democracy, to 'practical elements of democratic control [...] which have hitherto attracted little attention as democracy-enhancing factors' (Héritier 1999: 270).

One of the authors who explicitly reject the applicability of a state-oriented understanding of democracy to the EU is Majone. He suggests that the EU be judged according to legitimacy standards for regulatory agencies, i.e. 'bodies [that] are normally established by statute as independent administrative authorities<sup>8</sup> combining expertise with a rule-making and adjudicative function' (Majone 1998: 15). On the basis of these standards, he identifies the following problems with the democratic performance of EU institutions: 'technocratic decision-making, lack of transparency, insufficient public participation, excessive use of administrative discretion, inadequate mechanisms of control and accountability' (ibid.: 14-5). Majone also acknowledges that these problems appear at all levels of government. We find his argument applicable to sectors since officials from sectoral administrations, just as non-

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<sup>8</sup> These regulatory agencies are 'independent in the sense that they are allowed to operate outside the line of hierarchical control by the departments of central government, and that they are granted considerable discretion in the use of the powers delegated to them' (Majone 1998: 15). One example of regulatory agencies, according to Majone, is competition authorities (see Majone 1999: 11-3).

majoritarian institutions in Majone's case, 'are not directly accountable to the voters or to their elected representatives' (ibid.; see also O'Donnell 1999: 38).

In a similar vein, Hérítier points to the democratic elements at the EU level which defy a direct comparison with the democratic systems of the EU member states. She argues that the democratic elements are inherent in the nature of the European polity itself, and therefore democratisation may occur through the processes of policy making within the EU (Hérítier 1999: 274). The patterns of democratic legitimation that she identifies include transparency programmes, supportive policy networks that offer participation possibilities, and mutual horizontal control (ibid.: 270). Although these processes are 'not able to provide democratic legitimation for the European polity as a whole' they can nevertheless do so at the administrative level and in sectors (see ibid.: 280). In fact, not only is the logic behind the main argument in our project similar to that of Hérítier, but also the practices of democratic legitimation that she observes are strikingly similar to the elements of democratic governance that we find in the EU's programmes of co-operation with neighbouring countries.

Finally, Bartolini concurs with the line of reasoning outlined above in maintaining that 'national standards of political legitimacy are too high and inappropriate for the EU' (2005: 174). He argues that '[a]s legitimacy is not necessarily electoral political legitimacy, [...] other forms of legitimacy that are specific to its own architecture exist in the EU' (ibid.: 168). For policy networks in particular, he proposes participatory deliberation as a general legitimising principle. For input legitimacy this requires 'open participation of affected, concerned and interested actors', and output legitimacy is achieved by the 'quality of solutions through deliberative selection of generalizable interests' (ibid.: 173). Bartolini's argument largely corresponds to our rationale behind introducing participation as one of the dimensions of our concept of democratic governance.

All things considered, when focussing on political processes at the sectoral level beyond and within the nation-state, traditional definitions of democracy appear not to be the most adequate choice. For that reason, we introduce the concept of democratic governance.

## 2.2. The Concept of Democratic Governance

In general, the concept of democratic governance combines elements 'of a political regime in which citizens hold the right to govern themselves (democracy) with structures and mechanisms that are used to manage public affairs according to accepted rules and procedures (governance)' (Brinkerhoff 2000: 602). Importantly, the mode of governance at the sectoral level differs from the established modes at the state level such as elections. By focussing on sub-units of state administration, we define governance with reference to 'how the rules of the political game are managed' (Hyden, Court, and Mease 2004: 2) at this level. In particular, we are interested in whether the rules that 'provide the context in which policy and administration are carried out' (ibid.) meet commonly accepted democratic standards. Furthermore, in assessing the democratic quality of governance, we adopt a process-oriented approach. Instead of judging democratic governance in terms of policy content, we assess how democratic the way the policies are made and implemented is (cf. ibid.: 3, 12).

So we clearly distinguish between democracy and democratic governance and focus our attention on the latter. We are aware that elements of democratic governance cannot compensate for the lack of democracy at the state level. Furthermore, there could even be a trade-off with regard to democratisation at the polity level because autocratic regimes might concede some democratic elements to the population in order to preserve the overall system. Nevertheless we believe that such elements are noteworthy and should not be overlooked, as when studied from a polity-centred perspective. Even for established democracies, scholars are becoming aware that elements of democratic governance, such as the right of access to information and the institution of ombudsman, can strengthen or bolster the democratic process in general (cf. Bennett 1997: 222; Schedler 1999: 1-3; Bartolini 2005: 168).

In assessing the democratic quality of sectoral governance, we admit that each attempt to select those democratic rules and norms that are relevant for measuring democratic quality is incomplete and subject to political and academic contestations. However, we are still convinced that it is possible to show that some

elements are indeed 'relevant, consistent and necessary for ensuring democratic decision making' (Sørensen and Torfing 2005: 212) at the sectoral level.<sup>9</sup>

### 3. Dimensions of Democratic Governance

Most definitions of democracy are multidimensional. They typically specify a number of conceptually distinct aspects or characteristics that must be present before a political system can be considered fully democratic. The literature identifies various dimensions, labels equivalent dimensions differently and uses diverse indicators to measure the quality of each dimension (e.g. Laswell 1950: 234-5; Dahl 1971; Linz and Stepan 1996: 7-15; Merkel 1999; Merkel, Puhle, and Croissant 2003: 57).<sup>10</sup>

However, the existing multidimensional definitions of democracy focus on state political systems and do not match our framework. Therefore, in our conceptualisation, we start with the idea that democracy should be defined according to its underlying principles and not in terms of the institutions which embody them. It is 'the principles that are central to the question of definition; institutions are secondary and derivative, and may take different forms in different contexts' (Beetham 1999: 4). One of these different contexts is sectoral governance. Therefore it is especially important that the dimensions of our concept of democratic governance are constructed around principles and not institutions, since in different domains the realisation of these principles can take different shape. We show this variety across sectors when discussing the dimension of accountability and participation.

In order to assess the democratic quality of governance and its changes at the sectoral level, we introduce a multidimensional concept. This allows for a more differentiated assessment in each specific sector and is more beneficial for cross-sector comparison. At the moment, we assume that the dimensions are individually

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<sup>9</sup> Sørensen and Torfing develop an analytical model to measure the democratic performance of governance networks. Their approximation to a definition of democratic network governance is suitable for an application to our research – i.e. to democratic governance.

<sup>10</sup> For instance, Dahl distinguishes between two theoretical dimensions of democratisation, namely public contestation and the right to participate (1971: 4-8). Merkel, to take another example, distinguishes between five different partial regimes in an 'embedded liberal democracy' of which the electoral regime is the central one. It is further complemented by political liberties, civil rights, horizontal accountability, and the effective power to govern (see 2004a; 2004b).

necessary and jointly sufficient; that is, one dimension cannot substitute for poor performance in other dimensions. Moreover, the dimensions are interdependent and their margins sometimes blur. Full realisation of democratic governance in one dimension often requires at least partial realisation of democratic governance in the other dimensions. Finally, it is an open question whether the improvement of democratic governance at the sectoral level is a gradual, continuous or step-by-step process – if, indeed, there is a positive effect of promoting sectoral democratic governance.

In the following, we introduce three dimensions of democratic governance understood as ideal types of democratic decision-making and implementation at the sectoral level. We define them broadly enough so that they are applicable to various sectors, but at the same time narrowly enough to account for different instances that these dimensions take in different sectors. In view of that, our framework features three dimensions on which democratic governance may vary in quality: (i) transparency; (ii) accountability; and (iii) participation. Table 2 summarises the subsequent conceptual discussion of these dimensions and points to how democratic governance is to be measured in our project.

Table 2: Degrees of Democratic Governance at the Outcome Stage

		Dimension of democratic governance				
		Transparency		Accountability		Participation
		Issue	Governance	Vertical	Horizontal	
Degree of democratic governance	High	Right of citizens to information Free access of independent media		Enforcement, sanctions  Citizen or stakeholder monitoring rights and answerability		Admittance of non-state actors representing all relevant interests to decision- and policy-making
	Medium	Discretionary right of citizens to information Selective access of independent media, selective reporting		Limited applicability of accountability		
	Low	No right to information for media and citizens		No accountability to independent third parties		No participation rights to non-state actors

As indicated above, the value of democratic governance can be measured for the input, output and outcome stages of the EU's promotion of democratic governance in neighbouring countries. However, the table only reflects the measurement of the outcome. Here, the scale ranges from low up to medium and high. For the input and output we use a binary scale. We assess whether in EU documents (input) or EU agreements with the ENP countries (output) there are provisions regarding the principles of democratic governance. Clearly this is a yes or no question.

Importantly, we do not assume a causal link between the scores on input, output and outcome. In particular, the absence of provisions at the output stage may be due to a high degree of democratic governance at the outcome stage. For instance, the EU may not promote certain elements of democratic governance in co-operation with a country because these elements are already satisfactorily established there. Similarly, high scores on input and/or output do not necessarily imply high scores on outcome. Finally, for now we do not propose any aggregation rule for obtaining one single value of democratic governance at the level of sectors.

In the following sections we explain the dimensions of transparency, accountability and participation. We illustrate them with examples taken from documents concerning EU's co-operation with neighbouring countries – particularly Morocco, Russia and Ukraine – in the sectors of competition, environment, labour, and migration and asylum.

### 3.1. Transparency

Our first two dimensions of democratic governance correlate with the conventional dimensions of transparency and accountability, which prominently feature in definitions of democracy or measurements of democratic quality of political systems (Schmitter and Karl 1991; Morlino 2004; Beetham 1999). However, the requirement of both transparency and accountability is by no means restricted to the state level. These principles can also be realised at other levels like the supranational or global ones (European Commission 2001e; Grant and Keohane 2005). In our

approach, the dimensions of transparency and accountability are conceived to be applicable to policy sectors.

Transparency as a dimension of our concept of democratic governance takes two forms, namely issue-related and governance-related transparency. The first one covers access to issue-related information. This information could be issue-specific data (e.g. on environmental pollution) provided by governmental and non-governmental actors, all kinds of statistics provided by an independent statistical office, official documents, as well as studies on the effects of particular policies. The second, governance-related type of transparency implies that there is transparency about the decision-making process – i.e. about who takes the decisions, what the responsibilities of office holders are, and how they are appointed and promoted. For both types of transparency, the existence of free and independent media and individual information rights is crucial.<sup>11</sup>

Transparency is generally promoted by demands for ‘exchange [of] information and dialogue’ as well as improvement and exchange of data since these actions require access to information that might directly threaten policy-making and implementation in authoritarian regimes (cf. Zaharchenko and Goldenman 2004). One sector in which transparency provisions are included in the EU’s co-operation with neighbouring countries is the environment. For example, in co-operation with Russia the aim of promoting transparency of information on environmental issues appears in the economic chapters of the EU National Indicative Programme (NIP) for Russia adopted for 2004-06 (see European Commission 2001f). Further, it is demanded to ‘carry out assessments of the likely long-term impact of all relevant major policy initiatives, to assess their possible social, economic and environmental consequences’ (European Commission 2003b: 18). The requirement of creating a ‘clear, stable and efficiently enforced regulatory framework so that [investors] can assess with confidence what their environmental responsibilities are’ (European Commission 2001a) is one of the elements of good environmental governance, as understood by the EU.

Furthermore, transparency in the environmental sector is promoted with reference to the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 1998. For

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<sup>11</sup> However, institutionalisation of free and interdependent media takes place at the state level.



instance, the EU-Ukraine Action Plan calls on Ukraine to '[e]stablish procedures regarding access to environmental information and public participation, including implementation of Århus Convention, particularly by establishing structures and procedures for ensuring an acceptable level of service to those wishing to have access to information' (European Commission 2005: Art. 60).

### 3.2. Accountability

Although we agree with the literature that accountability is often connected to transparency (see Morlino 2004; Beetham 1999; March and Olsen 1995: 162), we treat these two as separate dimensions because they do not always go together. In particular, governance may be transparent without having the mechanisms of accountability, or accountability mechanisms may not be transparent. In the former case, one could think of the accountability of central banks when there are obligations to inform the public but no sanction mechanisms for not doing that (Schedler 1999: 17). An example for the latter case where the principle of publicity is not applied would be internal accountability of subordinates to superiors within administrative organisations (ibid.: 28, endnote 20).

In contrast to the traditional concept of vertical accountability, which is dependent on elections (Morlino 2004: 17-8), and the conventional notion of horizontal accountability in the sense of 'checks and balances' (Merkel 2004b: 41), we rather follow a more general understanding of accountability consisting in 'that some actors have the right to hold other actors to a set of standards, to judge whether they have fulfilled their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met' (Grant and Keohane 2005: 29).

Our conception of accountability largely follows an approach offered by Schedler. In particular, our notion as defined above also captures the aspects which Schedler labelled answerability understood as forcing power to justify acts, and enforcement, i.e. 'subjecting power to the threat of sanctions' (1999: 14).<sup>12</sup> With regard to real world examples Schedler underlines that answerability and

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<sup>12</sup> However, we depart from Schedler's conceptualisation insofar as we look at transparency in the sense of providing information not as a sub-category of 'answerability', and thus as a part of accountability, but as a separate dimension.

enforcement 'do not form a core of binary "defining characteristics" that are either present or absent and that must be present in all instances we describe as exercises of accountability. They are continuous variables that show up to different degrees, with varying mixes and emphases' (ibid.: 17). In order to make the notion of accountability compatible with our focus on sectors, we use it in its wide sense outlined by Schedler, namely 'with acts of accountability addressed to public officials', which not only includes politicians but also civil servants, police officers and other personnel employed by the state (ibid.: 22).

Furthermore, our notion of accountability comprises not only political accountability in the narrow sense, including the assessment of 'the appropriateness of both substantive policies and policy making processes', but also administrative accountability that 'reviews the expediency and procedural correctness of bureaucratic acts' and professional accountability which "watches" over ethical standards of professionalism' (ibid.) and forms an important part of the accountability of public officials (ibid.: 28, endnote 23).

Similar to the traditional approaches, one can differentiate horizontal and vertical accountability in sectors. Whereas the former refers to 'all acts of accountability that take place between independent state agencies' (i.e. intra-state relations), the latter comprises civil society-state relations (ibid.: 25). Horizontal accountability can be ensured by means of judicial review and institutions such as auditing agencies, ombudsmen, anticorruption bodies, investigating committees and commissions (cf. Diamond, Plattner, and Schedler 1999: 3) in particular sectors. As some of these are autonomous, non-elective specialised bodies, the question of second-order accountability (Schedler 1999: 25-26) and independence is not neglected. This is especially true if the personnel of these bodies is selected and appointed by the government. Therefore, strong horizontal control by agencies that are themselves under the control of the administration cannot count as a feature of democratic governance.

Regarding vertical accountability, we look at the possibilities for citizens and their associations to hold public officials in different policy sectors accountable. After all, it must be kept in mind that the establishment of the above-mentioned institutions is only the formal part of accountability. The 'real challenge is to make these bodies have and use teeth' (Hyden, Court, and Mease 2004: 135). This means that

accountability needs to be judged also in terms of performance because case studies indicate that existing institutions may be 'largely ineffective' (ibid.).

One example for horizontal accountability is the existence and intervention of independent competition authorities in the economic sector. They can assess whether administrative actors comply with the competition law and impose sanctions in the case of rule violation. For example, when it comes to state aid, independent competition authorities acting on the relevant legal provisions can hold public officials accountable in the case of unlawful state intervention that advantages a particular company or sector. The importance of accountability to the EU can be demonstrated by the EU policy towards Ukraine. The ENP Country Report on Ukraine points out that 'Ukraine's legislation does not define, or provide for the control of, state aids although the 2001 Law prohibits a number of anti-competitive actions by public authorities' (European Commission 2004d: 16). Accordingly, in the EU-Ukraine Action Plan the country is called on to '[i]mplement, and build upon, commitments on state aid [...] and develop legislation and control regime compatible with that of the EU' (European Commission 2005, Art. 39). In this example there is some overlap with the dimension of transparency because the disclosure of subsidies or other benefits is a prerequisite for the examination of their rightfulness. That is why the EU-Ukraine Action Plan demands the 'establishment of transparency as regards state aid granted in Ukraine (particularly by establishing a list of all aid grantors and an independent surveillance body, a regular report on the amounts, types and recipients of aid)' (ibid.).

In the migration and asylum sector, the Commission's thematic programme for co-operation with third countries in this area foresees the EU's intervention in the field of 'integration and non-discrimination [... such as] awareness raising among migrants on their basic rights and appropriate channels of law enforcement in case of their infringement' (European Commission, 2006a: 12). These rights also include 'the rights of migrants to decent work conditions and to fair treatment in the social and professional sphere' (ibid.). The latter can be seen as an attempt to strengthen vertical accountability. Another element of accountability in the migration sector is specialised training for judges, police and border officials mentioned in the EU-Morocco action plan (see also European Commission 2001g: 45f).

To be sure, the dimensions of transparency and accountability cannot be seen independently of the dimension of participation. There are clear links to participation because some of the mechanisms of accountability imply the involvement of the informed public.

### 3.3. Participation

We label the third dimension of our concept of sector-specific democratic governance ‘participation’. Traditionally, participation, one of the key dimensions in the conventional understanding of democracy centred at the level of polity (see, e.g., Dahl 1971; Verba 1967), is perceived as political participation and concerns the right to vote and the right to be elected – i.e. active and passive voting rights. Transcended to the level of sectors, the concept of participation broadens its meaning so as to account for non-electoral forms of participation. It concerns the participation of non-state actors in governmental decision- and policy-making.<sup>13</sup> The competences granted to non-state actors range from selective participation with no voting rights to open and full admittance to governmental decision- and policy-making. Clearly, by addressing the question of accessibility of governmental decision- and policy-making to non-state actors, the dimension of participation also takes in hand the fulfilment of the principles of transparency and accountability.

Our rationale behind introducing participation as an important component of democratic governance is similar to the argument by Sørensen and Torfing who maintain that joint public-private models of decision- and policy-making, or what they call governance networks defined as ‘negotiated interaction of a plurality of public, semi-public and private actors’ (Sørensen and Torfing 2005: 195), may have important democratic implications. They introduce the concept of ‘democratic anchorage’, and argue that once these governance networks are ‘properly linked to different political constituencies and to a relevant set of democratic norms that are part of the democratic ethos of society’ (ibid.: 201), they improve rather than obfuscate democratic quality of policy-making by strengthening political control over

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<sup>13</sup> By addressing the question of accessibility of governmental decision- and policy-making to non-state actors, the concept of participation reconsiders the roles of the state and the public in these processes towards a more inclusive approach. Sørensen and Torfing call this process ‘de-governmentalisation’ – i.e. a more ‘decentred governance based on interdependence, negotiation and trust’ (Sørensen and Torfing 2005: 195-6).

governmental action. So, we assume that the involvement of non-state actors is democratically important since it 'give[s] voice to citizens' policy concerns' (De la Porte and Nanz 2004: 268) and interests of other relevant parties. In this way, we do not share the view that increased participation is not necessarily democratic because it may lack transparency, democratic control and legitimacy.

We argue that democratising effects of governance networks may not only strengthen and improve the quality of existing democracies, particularly the member states of the EU, but also encourage and facilitate democratisation processes. This relates to our main argument that not only can democratic elements be found in sectoral policies, but also that the promotion of democratic governance in sector-specific co-operation may be an alternative, indirect way of the EU's promotion of democracy in the ENP countries.<sup>14</sup> More specifically, the promotion of greater openness of decision- and policy-making may be a strategy of routinising the democratic practices of participation, transparency and accountability.

The analytical link between traditional understanding of political participation and participation in sector-specific co-operation is backed by the concept of 'stakeholder democracy' originating in business and management studies. There, the main idea is that corporations can be seen as specific instances of democracy (see Matten and Crane 2005; Crane, Matten, and Moon 2004; Driver and Thompson 2002). In this perspective, stakeholders are considered as citizens of corporations, the latter understood as 'administrators of citizenship' (Crane, Matten, and Moon 2004: 109-10). Further, different categories of stakeholders – governmental and non-governmental organisations, trade unions, consumer associations, as well as simply employees – are seen as different constituencies of corporations. If adopting this view on corporations, it is possible to make arguments about the right of citizens and/or stakeholders to participate in decision-making in corporations, as well as about the democratic quality of the general environment in which corporations operate (see Crane, Matten, and Moon 2004: 110; Matten and Crane 2005: 6). The idea behind this is that the quality of performance in corporations can be most effectively controlled by the democratic procedures of increased participation and better accountability guaranteed by accessibility to decision-making. We find the concept of stakeholder democracy helpful for assessing countries' democratic

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<sup>14</sup> Explaining the mechanisms of such a transfer is, however, far beyond the scope of this paper.

performance, since it allows for moving down from the state level to the sectoral level, and study democratic governance without substantial loss of the meaning of what democracy is.

Since the end of the 1990s, the EU increasingly promotes the opening of its sectoral decision- and policy-making to non-governmental actors. These non-governmental actors include non-governmental organisations proper, sectoral experts, various stakeholders, public-private partnerships and other public, semi-public and private actors. Inclusion of these actors presents a major shift in the EU's perception of how decisions should be made and implemented,<sup>15</sup> and serves two main purposes: first, participation of the concerned actors from the relevant sectors is aimed at increasing the efficiency of sectoral policy-making (see European Commission 2001b, 2001e); secondly, engagement of public and non-governmental organisations is supposed to make decision-making more transparent and facilitate democratic control and public scrutiny over decisions regarding the policies that may have important societal implications. Importantly, the EU also promotes broader participation of non-state actors in decision- and policy-making in third countries and/or in relations of these countries with the EU.

The environmental sector provides one example of how the EU promotes greater involvement of non-state actors in decision- and policy-making in sector-specific co-operation. Within the EU, the Sixth Environment Action Programme seeks to involve 'a wide cross section of society' into environmental policy-making and empowers 'stakeholders and citizens to protect the environment' (European Commission 2001d: 3, 20-1). Further, the EU's Strategy for Sustainable Development calls for including 'proposals on wide-ranging consultation of stakeholders from within and outside the Union, typically including a public hearing, before tabling any major policy proposal' and suggests that '[r]eviews of major policies will similarly seek to obtain the views of stakeholders' (European Commission 2001b: 8). The Commission's Communication on EU-Russia Environmental Co-operation makes a breakthrough introducing to the EU-Russia co-operation elements of good environmental governance promoted within the EU itself

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<sup>15</sup> Whereas inviting experts for policy advice has long been part of the EU decision-making — under the procedure known as *comitology*, these guest experts have never had the right to vote on the policies they were providing opinions on. *Comitology* is often argued to be an obscure and essentially non-democratic procedure (see, e.g., Dehousse 2003).

(European Commission 2001c). In particular, this refers to advocating the enhancement of good governance and participation as the general objectives of EU-Russia co-operation on environment, close work with business and consumers to identify solutions, and developing a more environmentally conscious attitude towards specific environmental problems (ibid.: 4, 12).

Another example for the dimension of participation comes from the labour sector. Here, with the promotion of social dialogue the EU advances a participative mode of governance that exists at the EU level and 'refers to the discussions, consultations, negotiations and joint actions undertaken by the social partner organisations representing the two sides of industry (management and labour)' (European Commission 2004b: 12).<sup>16</sup>

Participatory elements are also found in the EU's migration and asylum policy. For example, the 2005-06 NIP for Morocco promotes micro-projects ensuring the participation of the local population in the management and distribution of natural resources: '[h]ost communities should be actively involved in the design and implementation' of EU regional protection programmes (European Commission 2004a: 18).

## **Conclusion**

This paper was aimed at presenting a new theoretical perspective on external democracy promotion. In contrast to the traditional understanding of democracy as a regime type and the property of the state level, we introduced the concept of democratic governance at the sectoral level. By democratic governance we understand the way of decision-making and implementation in sectors that are characterised by the presence of specific democratic features. We grouped the elements of democratic governance that we found in various EU documents on the relations with associated neighbouring countries in three dimensions: transparency, accountability, and participation. These dimensions are not strictly separate from each other and sometimes the margins between them blur.

In different sectors these dimensions may take different forms, as we have shown in our discussion of the dimension of participation. For instance, whereas in

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<sup>16</sup> [http://ec.europa.eu/employment\\_social/social\\_dialogue/index\\_en.htm](http://ec.europa.eu/employment_social/social_dialogue/index_en.htm), accessed on 03.10.2006.

the environmental sector participation refers to accessibility of decision- and policy-making to stakeholders and citizens, in the labour sector it is more about social dialogue.

The impact of the elements of democratic governance may not be necessarily positive. There can be trade-offs between third countries' democratic governance concessions in sectoral policies and their overall resentful approach to democracy pursued at the state level. In this way, the EU's indirect promotion of democratic governance at the sectoral level can even have an unwelcome effect of stabilising autocratic regimes. Another trade-off may be between the EU's interests and goals in issue-specific co-operation and the neglect of the ways in which they are achieved. For instance, EU interior ministers, police and other officers dealing with migration and asylum often prioritise pragmatic and fast solutions, and rarely consider if these policy solutions are decided and implemented consistently in accordance with the democratic requirements.

As such, one of the problems we face in our research is that the link between democratic governance in sectors may not always lead, or correspond, to democratisation at the state level. Another challenge is measuring the quality of democratic governance in sectors, especially the assessment of the actual impact of the EU on changes in this quality. Nevertheless, we are convinced that this alternative perspective on external democracy promotion is most promising and worth further investigation.

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