Good Governance in Ethiopia through European Aid?

Legal and Policy Aspects of the European Approach to support Good Governance and Civil Society in Ethiopia

by

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April, 2015
I, Daniela Amann, born on 31 May 1991, residing at Arndtgasse 4/87, 8010 Graz, hereby declare that the work presented in this thesis is entirely the result of my own research and work. Where I have consulted the work of another person, due reference is made in the text of the thesis. I further declare that this thesis has not been submitted, either in part or whole, for a degree at this or any other university. The present thesis corresponds to the electronic version submitted.


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Daniela Amann

Graz, April 2015
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<tr>
<td>APRM</td>
<td>African Peer Review Mechanism</td>
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<td>AU</td>
<td>African Union</td>
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<td>ACP states</td>
<td>African, Caribbean and Pacific Group of States</td>
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<td>DFID</td>
<td>British Department for International Development</td>
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<td>CSF</td>
<td>Civil Society Fund</td>
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<td>CSO</td>
<td>Civil Society Organisation</td>
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<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
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<td>DIP</td>
<td>Democratic Institutions Programme</td>
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<td>DCI</td>
<td>Development Cooperation Instrument</td>
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<td>DAG</td>
<td>Donor Assistance Group</td>
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<td>ECCAS</td>
<td>Economic Community of Central African States</td>
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<td>EHRC</td>
<td>Ethiopian Human Rights Commission</td>
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<td>EIO</td>
<td>Ethiopian Institution of Ombudsman</td>
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<td>EPRDF</td>
<td>Ethiopian People’s Revolutionary Democratic Front</td>
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<td>EOM</td>
<td>EU Election Observation Mission</td>
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<td>EU+ Strategy</td>
<td>EU Joint Cooperation Strategy for Ethiopia</td>
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<td>COM</td>
<td>European Commission</td>
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<td>EDF</td>
<td>European Development Fund</td>
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<td>EEC</td>
<td>European Economic Community</td>
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<td>EED</td>
<td>European Endowment for democracy</td>
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<td>EEAS</td>
<td>European External Action Service</td>
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<td>EIDHR</td>
<td>European Instrument for Democracy and Human Rights</td>
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<td>ENI</td>
<td>European Neighbourhood Instrument</td>
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<td>EU</td>
<td>European Union</td>
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<td>EU SRHR</td>
<td>European Union Special Representative for Human Rights</td>
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<td>FDRE</td>
<td>Federal Democratic Republic of Ethiopia</td>
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<td>FEACC</td>
<td>Federal Ethics and Anti-Corruption Commission</td>
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<td>GBS</td>
<td>General Budget Support</td>
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<td>GAP</td>
<td>Governance Action Plan</td>
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<td>Governance Incentive Tranches</td>
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<td>GoE</td>
<td>Government of Ethiopia</td>
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<td>GTP</td>
<td>Growth and Transformation Plan</td>
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<td>HOPR</td>
<td>House of Peoples Representatives</td>
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<td>HR</td>
<td>Human Rights</td>
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<td>Abbreviation</td>
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<tr>
<td>HR Committee</td>
<td>Human Rights Committee</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
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<td>JAES</td>
<td>Joint Africa-EU Strategy</td>
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<td>MS</td>
<td>Member States</td>
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<td>MDGs</td>
<td>Millennium Development Goals</td>
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<td>NAO</td>
<td>National Authorizing Office</td>
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<td>NEBE</td>
<td>National Electoral Board of Ethiopia</td>
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<td>NHRAP</td>
<td>National Human Rights Action Plan</td>
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<td>NSA</td>
<td>Non-State Actor</td>
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<td>ODA</td>
<td>Official Development Assistance</td>
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<td>OAU</td>
<td>Organisation of African Unity</td>
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<td>OECD</td>
<td>Organisation of Economic Cooperation and Development</td>
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<td>PASDEP</td>
<td>Plan for Accelerated and Sustained Development to End Poverty</td>
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<td>SBD</td>
<td>Sector Budget Support</td>
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<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
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<td>CESCR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<td>PBS</td>
<td>Protecting Basic Services Programme</td>
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<td>TECS</td>
<td>Tracking Trends in Ethiopia’s Civil Society</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UPR</td>
<td>Universal Periodic Review</td>
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Introduction

This thesis will assess the legal basis and practical aspects of the European Union’s (EU or the Union) engagement to promote good governance and Civil Society Organisations (CSOs) in Ethiopia. To this end, this paper will be divided into two parts: The first part will be dealing with the European Union’s definition of good governance and civil society, its relationship with Africa as well as its ‘external action toolbox’ to promote and protect human rights. The second part will then identify – based on reports of United Nations treaty bodies, amongst others - the human rights and governance situation in Ethiopia, and subsequently seeks to illustrate how the European Union uses its external action toolbox in order to promote good governance and civil society in Ethiopia.

Thus, the aim of this research is to address two major topics, represented by two blocks of research questions:

(1) **What instruments** does the EU use in its external action towards *Africa*? How does the EU use these instruments in order to promote good governance and civil society? What is the legal basis for using these tools in third countries? – Who has the competence to implement these instruments, the EU itself or its member states?

(2) How is the EU’s ‘external action toolbox’ implemented to support civil society and good governance in *Ethiopia*?

Relevance of the research questions

The concept of good governance, which was first used in a World Bank publication in the late 1980s, developed to be one of the most important concepts of development cooperation. Also the EU entered into the debate in the late 1990s, developing its own definition of good governance which it constantly refines.¹ Today, **good governance** constitutes a priority for the EU’s engagement in third countries, above all in the African, Caribbean and Pacific Group of States (ACP-States). In numerous documents, the EU points out that “good, legitimate and effective governance” is “a central prerequisite for sustainable development”.² Furthermore, good governance constitutes a ‘fundamental element’ of the Cotonou Agreement and a ‘cross-cutting’ issue, which is to be mainstreamed in all of the European external action.

¹ A discussion of the ‘European’ understanding of good governance will be given in the beginning of the first chapter.
The participation of civil society on the other hand, is recognised as being an important factor for good governance in the Lisbon Treaty. Furthermore, a policy paper recently issued by the European Commission (COM), “The roots of democracy and sustainable development: Europe’s engagement with civil society in external relations”, highlights the importance of civil society organisations, and the aim of the EU to strengthen CSOs in third countries. Not only does the communication point out that “an empowered civil society is a crucial element of any democratic system and [...] an asset in itself”, it is also accredited that CSOs “contribute to building more accountable and legitimate states”. More recently, the EU Commissioner for Development acknowledged civil society “as a main stakeholder in any drive for more accountable and legitimate government, for more social cohesion and democracy and for more inclusive and effective policy-making”.

Several aspects were taken into consideration, when selecting the country which this research will focus on. One the one hand, Ethiopia constitutes, from an EU perspective, an important role “in maintaining the current power balance and stability in the [Horn of Africa]”. On the other hand, the Horn of Africa is of importance for the EU because of various reasons:

(1) “[It’s] geo-strategic significance;
(2) the scale of its humanitarian and development challenges;
(3) the negative impact of piracy off the coast of Somalia on international maritime security and international economic activities;
(4) the effects of irregular migration out of the region, including into Europe, and the attendant significance of the region’s diaspora communities in the EU
(5) and the threat of terrorism, both in the region and through its linkages to Europe.”

Thus, as the EU is interested in a stable Horn of Africa, it wants to support a stable and therefore secure Ethiopia. Due to these reasons the EU also allocates a vast amount of its development cooperation resources to Ethiopia.

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3 Consolidated Version of the Treaty on the Functioning of the European Union, in OJ C 115/47, 2008, Article 15, hereinafter cited as TFEU.
5 EU Commissioner for Development (Andris Piebalgs), Speech “Civil Society Organisations, a Key Role to Play in Africa-EU Relation” at the Closing Session of Civil Society Organisation Forum of the EU-Africa Partnership, 2013, 2.
8 For the period of 1014-2020, an amount of EUR 745.2 million of the EDF is foreseen for Ethiopia.
The two priorities of the EU in its external action that are discussed above – good governance and civil society – constitute an important but at the same time rather complex matter for the European Union in Ethiopia. Ethiopia only overthrew the Derg regime in 1991, thus, is still on its way to move from a repressive and authoritarian system to a federal democracy led by the rule of law. Moreover, the role of civil society organisations is rather complicated in Ethiopia as several proclamations restrict the possibility of CSOs to work in fields of human rights, advocacy and good governance, especially if they receive money from foreign donors. Nevertheless, the EU considers the promotion of governance in Ethiopia as a “key for long term sustainable development”9 and moreover underlines the role of CSOs “as an equal and important partner in the development and democratisation processes of the country”.10 The interest of the EU in Ethiopia together with the complex situation of good governance and civil society organisations make the country at the Horn an interesting state to be addressed in this research.

Thus, the present thesis will be structured as follows:

**Chapter I** gives an introduction to the evolvement of the concept of good governance and the term civil society organisation as well as the European Union’s understanding of it. In the following, an overview of the history of the EU’s engagement in Africa and its current structure will be provided. The last part of Chapter I constitutes a mapping of the EU’s ‘external action toolbox’ to promote human rights in third countries. It will be outlined how the EU uses these tools in order to support good governance and civil society in its relations towards Africa.

**Chapter II** will focus on EU-Ethiopian relations. First, the main areas of concern in Ethiopia regarding good governance and civil society organisations will be highlighted, by analysing Ethiopia’s evaluation by various international institutions, including the Human Rights Committee and the African Union. In a second step, the European Union’s strategic framework and cooperation strategy towards Ethiopia will be briefly discussed, followed by an analysis of how the European Union uses its external action toolbox to promote good governance and civil society in Ethiopia. This part also contains a case study, in which a project funded under the 10th and 11th European Development Fund will be discussed in order to provide a practical view of EU project implementation.

**Chapter III** will then present the conclusion of the thesis, answering the research questions.

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10 Ibid.
1. EU external action tools to strengthen Good Governance and Civil Society in Africa

This chapter starts with an introduction to the terms good governance and civil society, explaining their origins and the European approach to the concepts. Subsequently, the relationship between Africa and the European Union will be further discussed, first by giving a general overview of the EU’s engagement in Africa and the recent evolvements of the Africa-EU Partnership. Understanding the EU’s position towards Africa, especially taking into consideration their history, is essential to understand the complex landscape of the EU’s Development Cooperation and moreover the EU’s promotion of good governance and civil society. Secondly, the EU’s action tools towards Africa which contribute to the promotion and support of good governance and civil society will be mapped. These instruments will be, on the one hand, divided into two categories: (1) development cooperation instruments and (2) foreign policy instruments. On the other hand, a second division will help to distinguish whether these instruments are a) specific instruments for the promotion of human rights and democracy or b) other instruments, which were not primarily developed to promote human rights and democracy, but are still used by the EU in order to influence and address these issues.

1.1. Good Governance and Civil Society

1.1.1. Good Governance – Origin and Definition

Although the concept of good governance is today generally acknowledged “as a condition sine qua non for development”\textsuperscript{11}, there is neither a universally accepted definition of the term nor an international agreement on its content. Several international actors, including states and international organisations, decided to integrate good governance into their policies and creating their own perception of what the concept implicates.

The term good governance was for the first time used by the World Bank in a publication in 1989 which reported on the sub-Saharan African economic crisis. Accordingly, the economic decline in these states was a result of “the deteriorating quality of government”\textsuperscript{12} and that “Africa needs not just less government but better government.”\textsuperscript{13} The World Bank established a link “between

\begin{flushright}
\textsuperscript{13} Ibid., 5.
\end{flushright}
democracy, good governance and development” and further developed its concept of good governance in succeeding reports, not at least by identifying three crucial aspects of good governance in 1994.

In the following years, good governance evolved to one of the most important concepts in development cooperation and was therefore somehow included in almost all bi- and multilateral agreements dealing with poverty reduction. International actors, such as the Organisation of Economic Cooperation and Development (OECD) and the United Nations Development Programme (UNDP), created their own understanding of good governance. Moreover, various international declarations, conferences and other international documents acknowledged the importance of good governance as prerequisite for development, sustainability and the eradication of poverty, including the Millennium Project Report, the Declaration on the Right to Development, the Human Development Report of 2002 and the report of the United Nations (UN) Secretary-General “In Larger Freedom”.

Similarly the European Union entered into the debate in the 1990s just after the Cold War. In various documents issued during this time period, the EU acknowledged the importance of human rights, democracy, the rule of law and good governance, creating a shift in its development cooperation policy, which previously mainly focused on the economic perspective. This shift began 1991 when the European Council and the Council of Development Ministers drew a link between the principles of good governance and development mentioning good governance for the first time in a declaration aimed at third countries. Shortly after, in 1995, the concept was already included in the revised Lomé IV agreement. However, good governance did not – like human rights, democracy and the rule of law – constitute an ‘essential element’ of the agreement, but rather only a “particular aim of cooperation operations.” The ACP negotiating mandate shows that ACP states were against including good governance as an essential element of the treaty, pointing out “that measurable

15 “(i) the form of political regime; (ii) the process by which authority is exercised in the management of a country’s economic social resources for development; and (iii) the capacity of governments to design, formulate, and implement policies and discharge functions”; World Bank, Governance: The World Bank’s Experience, Washington D.C. (The World Bank), 1994, 19.
21 Ibid.
standards have yet been developed for the current provisions” and that it would be “beneficial to lay down criteria and procedures for the joint determination of infringement of the agreed principles.”

Good governance remained high on the agenda of the European Union in following years which led to a ‘governance turn’ in 2000. Not only was good governance included as a ‘fundamental element’ in the Cotonou Agreement - the successor of the Lomé Conventions. But also did the EU try to define its understanding of the concept. The European Commission (COM) pointed out that “partnership, ownership of development processes by the population” and strengthening the institutional as well as administrative capacity of partner countries are principles for “successful development policies.” In this context, COM highlighted that “new modalities and fundamental changes in procedures and practices” were needed. The essential elements of the Cotonou Agreement were specifically mentioned as such a change as well as the need to encourage good governance, which “[involves] in particular a reciprocal commitment to ensure transparent and accountable management of financial resources earmarked for development, and to prevent and fight corruption.”

One year later, the EU issued a White Paper on European Governance in which it established five principles of good governance and specifically acknowledged the role of civil society to good governance. Although the paper primarily focuses on procedures within the EU, it is also pointed out that the paper is meant to “look beyond Europe” and should “contribute to the debate on global governance”.

The internal debate on the concept of good governance continued and started to clear up in the following years. In particular, there are two documents issued by the European Commission which aimed at developing a coherent EU approach to governance in its external affairs: the

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24 Ibid., 20.
25 The difference between ‘essential’ and ‘fundamental’ element of the Cotonou Agreement will be explained in Chapter I (3) ii. Human Rights Clauses.
27 Ibid., 28.
28 Ibid., 28.
29 Ibid., 28.
Communication ‘Governance and Development’ in 2003 and the ‘European Consensus on Development’ in 2006.\(^\text{31}\)

In its communication from 2003, the COM draws a distinction between governance and good governance. **Governance**, on the one hand, “concerns the state’s ability to serve the citizens”\(^\text{32}\) and relates to “the very basic aspects of the functioning of any society and political and social system.”\(^\text{33}\) The communication specifically explains that such a broad understanding of governance allows to differentiate governance from human rights, democracy and corruption pointing out that governance “provides a terminology that is more pragmatic”\(^\text{34}\) than the latter. **Good governance**, on the other hand, appears “as the concepts of human rights, democratization and democracy, the rule of law, civil society, decentralized power sharing, and sound public administration gain importance and relevance.”\(^\text{35}\)

The **European Consensus on Development** issued in 2006, refers to the passage cited above in its introduction and aims to further develop the EU approach to good governance, as well as to clarify their application in both ACP and other countries. Furthermore, it introduces the term ‘democratic governance’ to the EU framework, which until that date, was only used by the EU in the international debate. The ‘broad approach’ to **democratic governance**, which the COM refers to, includes “the respect of human rights and fundamental freedoms [...], support for democratisation processes and the involvement of citizens in choosing and overseeing those who govern them; respect for the rule of law and access for all to an independent justice system; access to information; a government that governs transparently and is accountable to the relevant institutions and to the electorate; human security; management of migration flows; effective institutions, access to basic social services, sustainable management of natural and energy resources and of the environment, and the promotion of sustainable economic growth and social cohesion in a climate conducive to private investment.”\(^\text{36}\) Specifically, the EC pointed out that democratic governance is more than just the fight against corruption, which is a “symptom of poor governance and of a lack of transparent management and control systems.”\(^\text{37, 38}\)

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\(^\text{31}\) Tanja A. Brözel, Yasemin Pamuk, Andreas Stahn (2008), 18.


\(^\text{34}\) European Commission (2003a).


\(^\text{36}\) European Commission (2006a), 5.


\(^\text{38}\) See further Todd Landman, Marco Larizza, EU Policy Discourse: Democracy, Governance and Human Rights, Stockholm (International IDEA), 2010.
Thus, the European Union’s understanding of governance, good governance and democratic governance is very broad, complex and constantly expands and evolves. As an attempt to promote a better understanding of good governance, the European Commission issued a ‘Handbook on Promoting Good Governance in EC Development and Co-operation. The handbook breaks down good governance into six clusters aiming to create “more easily understandable and manageable components”. These clusters, however, are interrelated and work in synergy:

1. Democratization support including support for electoral processes and electoral observation (with emphasis on participation, representatively and accountability);
2. Promotion and protection of human rights (as defined in the international covenants and conventions, respect of norms and non-discrimination);
3. Reinforcement of the rule of law and the administration of justice (as to the legal framework, legal dispute mechanisms, access to justice, etc.)
4. Enhancement of the role of civil society and its capacity building (as a partner and actor of public policy)
5. Public administration reform, management of public finances and civil service reform
6. Decentralization and local government reform/capacity building (to promote and institutionalize participation at the local level with a focus on local power structures and resources).”

1.1.2. Civil Society Organisation – Definition

As discussed in the previous section, Civil Society Organisations (CSOs) play a vital role for the European Union’s approach of good governance in its external relations. Although the term ‘Civil Society Organisations’ was not as elaborately discussed as good governance within the European Union, the EU has a long practise to engage with these organisations in third countries.

Since the 1970s CSOs were increasingly involved in the formulation of EU policy frameworks as well as in EU programming. However, it was not until the early 2000s, that CSOs were recognised for the important role they play in a wide range of development fields, such as empowerment and information flow. A Communication by the Commission in 2001 on the participation of non-state actors (NSAs) in EC development policy gives an outline of the EU’s evolvement with CSOs in its external relations until 2001. Besides giving a variety of definitions, including state-actors and profit as well as non-profit non-state actors, the communication sought to clarify the concept of a

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participatory approach, in which CSOs should be involved in the definition of country strategies as well as the programming process.41 Further, a “Structured Dialogue on the Involvement of CSOs and Local Authorities in COMs Development Cooperation”42 which was held between March 2010 and May 2011, enabled the EU to develop its policy on external cooperation and development.

Finally, in 2012, the Commission issued another Communication43, in which it presented its policy framework for the EU’s future engagement with CSOs, building on the structured dialogues held between 2012 and 2011.44 First of all, it points out that various actors are included in the term ‘CSOs’, however, these definitions “vary over time and across institutions and countries.”45 For the European Union, CSOs include all forms of non-state and non-for-profit structures, which are non-artisan, non-violent and enable people to “organise to pursue shared objectives and ideals, whether political, cultural, social or economic.”46 The EU engages with those CSOs which are accountable and transparent and “share its commitment to social progress and to the fundamental values of peace, freedom, equal rights and human dignity.”47

The primary objective of the Communication is to foster the relation between the EU and CSOs and to support the work of the latter nationally as well as internationally. In this regard, the Commission identified three main priorities in the engagement with CSOs: Firstly, the need for a “conducive environment for CSOs in partner countries.”48 Secondly, the inclusion of CSOs in domestic policies of partner countries and moreover the framework of EU policies. And lastly, the necessity to increase the capacity of local CSOs to undertake “their roles as independent development actors”49 more effectively.50

1.2. The EU in Africa

Initially, it should be pointed out that the EU’s engagement in Africa is not only guided through agreements and partnerships that will be discussed in this paper. The Union also developed a wide-ranging legal and policy framework, which is directing the EU’s engagement in its external relations and sets out principles and objectives of its action. Of particular relevance in this regard is the ‘human rights package’, which was adopted by the European Council in June 2012.51 It consists of the Strategic Framework on Human Rights and Democracy, the EU Action Plan on Human Rights and Democracy52 and the decision to appoint an EU Special Representative for Human Rights53. These three documents foster the EU’s commitment to place human rights at the centre of its relations with all third countries and to mainstream human rights in all areas of its external action. Also, the European Union developed several human rights guidelines, which play a central role for its policy formulation towards third states. These aspects are important and should be kept in mind while discussing the EU’s engagement in Africa as well as in Ethiopia. However, it would exceed the limit of this research to discuss them in this paper.

Traditionally, the European Union’s relationship with Africa was - and still mostly is - embedded in its overall policy towards the so-called African, Caribbean and Pacific group of countries.54 More specifically, it roots in the relations of the EU’s MS with their ex-colonial territories. However, already since the Treaty of Rome of 1975, which was the first treaty to provide for a special treatment for “the Community of non-European countries and territories which have a special relation with Belgium, France, Italy the Netherlands and the United Kingdom”55, these relations where embedded in the EU (which at that point was still the European Economic Community (EEC)). Subsequently, with the continuing decolonisation process, the ECC established the Yaoundé Conventions (1963-1975) with 18 African states, followed by the Treaty of Lomé 1975, which was regularly renewed within a

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time frame from 1975 to 2000, each time increasing both the developing and European countries involved as well as the instruments used and financial aid given.\textsuperscript{56}

A first significant shift in the EU’s relation with the ACP states was reached after the end of the Cold War, when Europe changed its policy towards developing countries, mentioning human rights and aid conditionality in the revised Treaty of Lomé IV for the first time.\textsuperscript{57} Finally, in the year 2000, the Cotonou Agreement, was established. This agreement constitutes the most important treaty between the EU and ACP states until today.

Additionally to the Cotonou Agreement, there was a second major modification in the EU’s policy in 2000, however, only towards Africa and not towards all ACP states in general. A first “historic […] Africa-EU Summit” took place in Cairo, where the “partnership [between Africa and the EU] was strengthened through the institutionalisation of [their] dialogue”.\textsuperscript{58} The EU and African states defined fields of further dialogue, as well as structures in which such future dialogues should take place.\textsuperscript{59} Amongst others, it was agreed that regular meetings between ministers and senior officials are to further strengthen the relationship between the two parties. These structures changed as a result of further integration processes in the EU, as well as the establishment of the African Union (AU) in Africa replacing the Organisation of African Unity (OAU) in 2002.

In 2005 the EU introduced a first Strategy for Africa which aimed to give the EU “a comprehensive, integrated and long-term framework for its relations with the African continent”.\textsuperscript{60} The main objective of the Strategy was the EU’s commitment to encourage the achievement of the UN Millennium Development Goals (MDGs) in Africa and to further deepen its relationship with Africa. The EU Strategy was, however, strongly criticized as only focusing on an EU point of view and not taking into account the African perspectives nor seeking African collaboration.\textsuperscript{61} Therefore – constituting a further milestone in the EU relations towards Africa - a Joint Africa-EU Strategy (JAES) was elaborated and adopted at the second EU-Africa Summit 2007 in Lisbon. This strategy sought to “take the Africa-EU relationship to a new, strategic level with a strengthened political partnership

\textsuperscript{56} Vassiliki N. Koutrakou, New Directions in the EU’s Third World policy: From Aid to Trade under the Watchful Eye of the WTO, in Vassiliki N. Koutrakou (Eds.), Contemporary Issues and Debates in EU Policy: The European Union and International Relations, Manchester (Manchester University Press), 2004, 120 – 133, 121.


\textsuperscript{59} Georg Lennkh (2010), 75.


\textsuperscript{61} Georg Lennkh (2010), 76.
and enhanced cooperation at all levels.”\(^{62}\) The strategy not only redefined the institutional architecture and implementation as well as four main objectives of the long-term strategic partnership – ‘Governance and Human Rights’ being one of them – it also decided that this framework should be implemented through “successive Action Plans which will build on the operational part of this Joint Strategy and cover proposed priority actions for three years.”\(^{63}\)

The second action plan, adopted 2010 in Tripoli at the 3\(^{rd}\) Africa-EU Summit, introduced Joint Expert Groups established for each of the eight thematic topics.\(^{64}\) Finally, the 4\(^{th}\) Africa-EU summit took place 2014 in Brussels, Belgium, leading to three documents: a political declaration, a roadmap for the years 2014-2017 and a declaration on migration.\(^{65}\)


\(^{65}\) Ville Suurarinen, EU-Africa Relations following the 4th EU-Africa Summit, in Cuadernos Ma Manuel Giménez Abad No 7 (2014).
1.3. EU support of Good Governance and Civil Society in Africa

The EU’s engagement in African states is implemented through various instrument and tools, which the EU developed in its external action in order to promote democracy and human rights. Until now, the literature refrained from dealing with the EU’s ‘external action toolbox’ as a whole and rather either focused on specific instruments, or on dividing them into broader categories. These categories either make a distinction between ‘carrots’ and ‘sticks’66, or between ‘Aid Allocation’, ‘Direct support through programmes and projects’ and ‘Mainstreaming HR’.67 Thus, a mapping of the EU’s external action tools as a whole remains rather vague.

In addition, until now, no research on the EU’s external action tools included the fact that the EU is not a sovereign itself, but an international organisation sui generis. Although, unlike other regional organisations, the member states of the EU decided to consign parts of their sovereignty to the EU - giving it competences to undertake legally binding acts without their consent - it does not have exclusive competences in all fields. Especially in the field of the common foreign and security policy (CFSP), the competences remain largely with the member states. Therefore, a distinction between instruments that form part of the development cooperation, hence the competence of the COM, and the CFSP is significant.

Recently a research group under the FRAME project, issued a paper in which a mapping of the relevant EU action tools took place.68 The present paper follows the structure of the FRAME research paper, however, it extends its value in various ways: First of all, this paper takes a specific focus on how the Union uses its toolbox to promote good governance and civil society organisations in Africa. Secondly, a division between development cooperation instruments and instruments of the common foreign and security policy (foreign policy instruments) will broaden the understanding and usage of the EU external action tools. And most importantly, the subsequent chapters will specifically reference the instruments and tools mapped in this section, providing a practical view on the implementation of these instruments in Ethiopia. Table 1 provides an overview of the instruments that will be dealt with in this chapter.

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Table 1: The EU’s External Action Toolbox to Promote HR and Democracy

<table>
<thead>
<tr>
<th>Development Cooperation Instruments</th>
<th>Foreign Policy Instruments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Specific Instruments for the Promotion of Human Rights and Democracy</td>
<td>1. Human Rights Dialogues (Political Dialogues)</td>
</tr>
<tr>
<td>1. European Instrument for Democracy and Human Rights (EIDHR)</td>
<td>(2) EU Special Representative (EUSR) for Human Rights</td>
</tr>
<tr>
<td>2. Human Rights Clauses</td>
<td>(3) Human Rights and Democracy Focal Points</td>
</tr>
<tr>
<td></td>
<td>(4) Election support</td>
</tr>
<tr>
<td></td>
<td>(5) European Endowment for Democracy</td>
</tr>
<tr>
<td>Financial Instruments</td>
<td>1. Action in Multilateral Fora</td>
</tr>
<tr>
<td>3. Geographic financial instruments</td>
<td>2. Démarches and Declarations</td>
</tr>
<tr>
<td>(1) European Development Fund (EDF)</td>
<td>3. Restrictive Measures</td>
</tr>
<tr>
<td>(2) Development Cooperation Instrument (DCI) incl. Pan-African Programme</td>
<td></td>
</tr>
<tr>
<td>(3) European Neighbourhood Instrument (ENI)</td>
<td></td>
</tr>
<tr>
<td>4. Thematic financial instruments</td>
<td></td>
</tr>
<tr>
<td>(4) European Instrument for Democracy and Human Rights (EIDHR)</td>
<td></td>
</tr>
<tr>
<td>(5) Instrument Contributing to Stability and Peace (IcSP)</td>
<td></td>
</tr>
<tr>
<td>(6) Instrument for Nuclear Safety Cooperation (INSC)</td>
<td></td>
</tr>
</tbody>
</table>

1.3.1. Development Cooperation Instruments

Although the European Council defines the strategic interests of the European Union as well as the general guidelines of the EU’s action within the common foreign and security policy, it is the Commission which negotiates international agreements, such as the Cotonou Agreement, and manages the financial instruments as well as development programmes. The competence of the European Commission to conclude agreements with third parties is based on Article 218 Treaty of the Functioning of the European Union (TFEU) with prejudice of Article 207 TFEU. Moreover, the Commission is responsible to represent the European Union in all affairs, which do not fall under the CFSP according to Article 17 (1) Treaty of the European Union (TEU). Therefore, contrary to the foreign policy instruments, the main decision of implementation and application of the development cooperation instruments – and also the human rights clauses, which are part of the international
trade agreements with third parties\(^{69}\) - remains within the European Union and not by the individual member states.

### 1.3.1.1. Specific instruments for the promotion of Human Rights and Democracy

#### 1.3.1.1.1. EIDHR

The European Instrument for Democracy and Human Rights (EIDHR) is a thematic financial instrument which was introduced mainly for two purposes: First the enhancement of respect, implementation and observance of human rights and basic freedoms; and second the support and development of democracy and the rule of law in third countries, specifically by strengthening civil society organisations. As all thematic financial instruments, the EIDHR can be used to support projects in regions all over the world. It constitutes a unique instrument which differs greatly from the other tools the EU uses in its external action. In particular, there are two features which make the EIDHR unique: First, the EIDHR primarily addresses Non-State Actors and secondly, it does not require the consent of the government concerned.\(^{70}\) These features aim to give the EU the capacity to work with civil society organisations on sensitive human rights and democracy issues. Therefore, the EIDHR adds in theory a great value to the EU’s external action toolbox. In this context the Regulation establishing the EIDHR (in this section referred as the Regulation) states that the EIDHR “should have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of the governments and public authorities to third countries concerned.”\(^{71}\)

The scope of the EIDHR is set out in Article 2 of the Regulation, building upon **four groups of themes**. The first group is the support and enhancement of “participatory and representative” democracies and the second “the promotion and protection of human rights and fundamental freedoms”\(^{72}\). These first two objectives should be primarily implemented through civil society organisations. The third and the fourth priority group address “the support for the international framework for the protection of human rights, justice, gender equality, the rule of law and democracy, and international humanitarian law” and the enhancement of reliable and transparent elections, mainly through the observation of EU Electoral Observation Missions\(^{73}\)

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\(^{71}\) Ibid. Article 2 Paragraph 1(a) and (b).

\(^{72}\) Ibid. Article 2 Paragraph 1(c) and (d).
Specific **objectives and priorities** are laid down in the Annex of the Regulation establishing the EIDHR. Additionally, the Multiannual Indicative Programme of the EIDHR identifies the distribution of resources to these priority areas. The objectives of the EIDHR are (the distribution scheme is indicated in brackets):

i. Support to human rights and human rights defenders in situations where they are most at risk (20-25%)

ii. Support to other EU HR priorities (20 – 25%)

iii. Support to democracy (15 – 20%)

iv. EU Electoral Observation (up to 25%) and

v. Support to targeted key actors and processes, including international and regional human rights instruments and mechanisms (10%)\(^7^5\)

Although **good governance** is only mentioned in the preamble of the regulation - “the promotion of human rights, democracy, the rule of law and good governance, and of inclusive and sustainable growth, constitute two basic pillars of the Union’s development policy”\(^7^6\) – the EIDHR clearly supports the broad concept of good governance.\(^7^7\) This can be especially observed through its specific focus on **CSOs** and its aim to support democracy from the inside, through a ‘bottom up approach’.\(^7^8\) Through these instruments the EU can also “circumvent the governments of the recipient countries”\(^7^9\) and continue to support the country, even if other programmes have been suspended.

Critics argue that the EIDHR does not live up to its purpose. The main obstacle is – as usual – a financial one. The budget - the financial envelop dedicated to this instrument only amounts to Euro 1.332.752.000,- for the period of 2014 until 2020\(^8^0\) constituting only a very small share of the EU’s budget in its external action – would not be enough to live up to the EIDHR mandate.\(^8^1\)\(^8^2\)

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\(^7^4\) These thematic priorities may be amended by the Commission through delegated acts, however, the Commission has a duty to notify the EP and the Council as soon as it adopts such an act, who can revoke its delegation power at any time. *European Parliament, Council of the European Union (2014a), Article 6 and 7.*

\(^7^5\) *European Union, Concept Note for Multiannual Indicative Programme EIDHR 2014-2020, 2013, 6.*

\(^7^6\) *Council of the European Union (2014a), 1.*

\(^7^7\) Tanja A. Brözel, Yasemin Pamuk, Andreas Stahn (2008), 46.


\(^7^9\) Tanja A. Brözel, Yasemin Pamuk, Andreas Stahn (2008), 46.

\(^8^0\) *European Parliament, Council of the European Union (2014a), Article 10.*


\(^8^2\) For further critical aspects of the EIDHR, see Anna Kárniková, *Do They Actually Matter? The Impact of NGOs on the European Instrument for Democracy and Human Rights (EIDHR),* in Perspectives Vol. 20 (2012), 83 – 110.
1.3.1.1.2. Human Rights Clauses

Human rights clauses are a punitive way of implementing the EU’s human rights strategy towards third countries. These clauses enable the European Union – as well as third country party to an agreement in which a human rights clause is contained - to undertake unilateral measures in the case of the violation of human rights.

The EU did not always include human rights clauses in its bilateral agreements, however, since 1995 there exists a formal EU policy binding the Union to include human rights clauses in “all of its international trade and cooperation agreements.” These clauses are now contained in agreements with over 130 countries in the world, among them the Cotonou Agreement.

Human rights clauses mostly follow the same basic structure: A clause in the beginning of the agreement names fundamental human rights and democratic principles to constitute the essential elements of the agreement (‘essential elements clause’). In the end of the agreement there is an additional clause determining that ‘appropriate measures’ might be taken by either state party, if the other party violates the agreement, including the essential elements of this agreement (‘non-execution’ or ‘non-fulfilment clause’). Although all human rights clauses follow this basic structure, they highly differ from each other. It is always up to the states party to the agreement, to decide on the specific measures or procedures that need to be followed after the violation of such an ‘essential element’.

While the basic structure of human rights clauses is designed in a way that they appear punitive, the Commission clarified in a communication in 2001 that the inclusion of these clauses does not follow a negative or punitive approach. Their objective is to promote dialogue and positive measures “such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments and the prevention of crises through the establishment of long-term relationships.” The EU sees human rights clauses as the “basis for cooperation on human rights and the promotion of human rights in relation to the areas covered by these agreements.” The approach of the EU to use the human rights clause in a positive way, can also be observed in their application. Until now, the EU only took appropriate measures on twenty-three occasions - all

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84 Message EEAS, Europe Direct Contact Centre, 1.12.2014


of them against ACP-countries.\textsuperscript{87} There is also a broad discussion about the inconsistency of the appliance of human rights clauses of the EU, which will, however, not be subject to this research.\textsuperscript{88}

In regard to \textit{Africa}, the most important agreement including a human rights clause is the Cotonou agreement. This human rights clause is particularly elaborate due to two factors. Firstly, the Cotonou Agreement contains not only ‘essential elements’ – namely the respect for human rights, democratic principles and the rule of law\textsuperscript{89} - whose breach by one party enables the other one to undertake appropriate measures according to Article 96 Cotonou Agreement. The agreement also contains a ‘fundamental element’: good governance. Although, the EU aimed at including good governance as an essential element, the ACP states refused to accept it.\textsuperscript{90} In this regard, the parties agreed that only “serious cases of corruption, including acts of bribery leading to such corruption”\textsuperscript{91} lead to a violation of the agreement, thus, enable the other state party to take appropriate measures due to this violation.\textsuperscript{92}

Secondly, the Cotonou Agreement established an obligatory \textit{consultation procedure} prior to taking an appropriate measure. This procedure requires states, in non-urgent cases, to inform the other party as well as the Council of Ministers about the issue, and furthermore hold consultations on the measures to be taken by the party concerned. The goal is to seek a solution acceptable to both Parties and limit the possibility that a human rights clause would be enforced.

\textbf{1.3.1.2. Other instruments, contributing to HR and democracy – Financial Instruments}

In addition to the human rights clauses and dialogues, financial assistance given to third countries falls into the competence of the Commission, thus the development cooperation tools. The EU is one of the major donors in the field of development cooperation worldwide and together with its member states the biggest contributor to Africa. In order to organise its financial assistance to third countries, the European Union developed two budget lines – with a thematic and a geographical focus - which again are to be divided into several separate instruments. For the period of 2014 to

\begin{itemize}
\item \textsuperscript{87} \textit{Johanne Dohlie Saltines}, The EU’s Human Rights Policy: Unpacking the Literature on the EU’s Implementation of Aid Conditionality, ARENA Working Paper 02/2013, 2013, 7.
\item \textsuperscript{90} \textit{Directorate-General for external policies}, Study: Political Dialogue on Human Rights under Article 8 of the Cotonou Agreement, 2014; hereinafter cited as \textit{Directorate-General for external policies} (2014b).
\item \textsuperscript{91} \textit{The Cotonou Agreement} (2010), Article 9.
\item \textsuperscript{92} \textit{European Centre for Development Policy Management}, Cotonou Infokit: Essential and Fundamental Elements, 2002.
\end{itemize}
2020 the EU established three thematic and three geographical instruments, which are illustrated in Table 2.

According to these instruments, the European Union decides in which countries and for which purposes it wants to spend its money. Accordingly, if speaking of the promotion of human rights, democracy, good governance and the rule of law in Africa, two instruments are of particular relevance: The European Development Fund (EDF) and the EIDHR. As the latter has already been discussed in the previous section, the EDF remains to be assessed at this point. Additionally, the Development Cooperation Instrument funds a project with specific focus on governance structures within the African Union, the Pan-African Programme.

Table 2: The EU’s Development Cooperation Budget Lines (2014-20) 93

<table>
<thead>
<tr>
<th>Financial Instrument</th>
<th>Countries covered/purpose</th>
<th>2014-2020 Budget</th>
<th>2014 Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Geographic Financial Instruments</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>European Development Fund (EDF)</td>
<td>ACP-countries and overseas countries and territories</td>
<td>26.984 billion</td>
<td>2.951 billion</td>
</tr>
<tr>
<td>Development Cooperation Instrument (DCI)</td>
<td>Latin America, Asia and the Gulf Region; also five thematic programmes 94</td>
<td>19.661 billion</td>
<td>2.309 billion</td>
</tr>
<tr>
<td>European Neighbourhood Instrument (ENI)</td>
<td>Other neighbouring countries</td>
<td>15.432 billion</td>
<td>2.113 billion</td>
</tr>
<tr>
<td><strong>Thematic Financial Instrument</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>European Instrument for Democracy and Human Rights (EIDHR)</td>
<td>Protect human rights and basic freedoms; promote democracy and rule of law</td>
<td>1.332 billion</td>
<td>179.3 billion</td>
</tr>
<tr>
<td>Instrument Contributing to Stability and Peace</td>
<td>Strengthens security in crisis situations and in the aftermath</td>
<td>2.338 billion</td>
<td>314.5 billion</td>
</tr>
<tr>
<td>Instrument for Nuclear Safety Cooperation</td>
<td>Promotes nuclear safety, radiation protection and emergency preparedness</td>
<td>225.3 million</td>
<td>29.4 million</td>
</tr>
</tbody>
</table>

All figures in Euro

94 The five thematic programmes under the DCI are: environmental protection, the role of non-state actors, food security, migration, and human and social development.
1.3.1.2.1. The European Development Fund (EDF)

The European Development Fund is the EU’s main instrument for financial cooperation with ACP-states and overseas territories. Its general provisions are set out by the Cotonou Agreement, the Internal Agreement between the EU MS on the financing of EU aid and the Council Regulation on the implementation of the 11th EDF.

The Cotonou Agreement sets a particular focus on human rights, the rule of law and good governance and connects these objectives to financial assistance. In order to enforce these provisions a human rights clause was included in Article 9 in conjunction to Article 96 of the agreement. Furthermore the Cotonou Agreement includes specific provisions regarding political dialogue.

Also, several clauses set out in the Cotonou Agreement put a strong emphasis on the cooperation between the EU and the ACP states, and in specific on local ownership and equality between the contracting partners. In particular, operations financed under the framework of the Cotonou Agreement all base on a “multi-annual financial framework of cooperation.” This framework is grounded on a country strategy paper, prepared jointly by the respective ACP-state and the European Union, and serves as a tool to prioritise activities and to strengthen the local ownership of the cooperation programmes. Hence, the national government is constantly involved in the decision making process of where and how money is spent.

But also civil society organisations play a central role in the Cotonou Agreement and shall be included in the decision making progress of the financial framework as well as the other dialogues held between ACP states and the EU. Furthermore, CSOs are eligible for financial support under the EDF according to Article 58 of the Agreement.

The European Development Fund differs from other development assistance instruments of the EU, as it is not part of the EU budget itself, but based on an inter-governmental agreement of EU MS.

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97 For further information on the human rights clause contained in the Cotonou Agreement, see Chapter 1.3.1.1.2. Human Rights Clause.
100 European Council and Member States (2013).
Therefore, the budget of the EDF is not, as the other financial instruments, determined through the ordinary legislative procedure – in which the European Parliament decides together with the European Council – but on an agreement between the member states, thus, without decision making power of the European Parliament. This makes the EDF the only EU policy instrument which is funded from a key distinct from the EU budget key.\(^{101}\) Generally the budget for the EDF is determined for a six year period, however, the 11\(^{th}\) EDF covers the period from 2014 – 2020, in order to end at the same time as the Cotonou Agreement.\(^{102}\)

1.3.1.2.2. The Development Cooperation Instrument (DCI): Pan-African Programme

The Development Cooperation Instrument is exclusive, as it is the only instrument which is a geographic as well as a thematic budget line of the Union. The DCI covers financial assistance to three different types of programmes: (1) First, it is a geographic financial instrument which provides funds to Latin America, Asia and the Gulf Region. ACP-States are specifically excluded from these funds according to Article 1 (a) (i) of the Regulation establishing the DCI;\(^{103}\) (ii) Secondly, it is a thematic financial instrument, covering support to programmes “to address development-related global public goods and challenges and support civil society organisations and local authorities in partner countries.”\(^{104}\) These thematic programmes are therefore split into two categories – A ‘Global Public Good and Challenges Programme’ and a ‘Civil Society and Local Authorities Programme.’\(^{105}\) And lastly, (iii) it establishes a Pan-African Programme with the objective of supporting “the strategic partnership between Africa and the Union […] and […] cover activities of a trans-regional, continental or global nature in and with Africa.”\(^{106}\)

The strategy of the Pan-African Programme defines the five priority areas of the instrument:

1. Peace and Security
2. Democratic, Good Governance and Human Rights
3. Human Development
4. Sustainable and inclusive development and growth and continental integration

\(^{101}\) Mikaela Gavas, Reviewing the Evidence: How well does the European Development Fund Perform?, 2012, 4; hereinafter cited as Mikaela Gavas (2012a)

\(^{102}\) Mikaela Gavas, Replenishing the 11\(^{th}\) European Development Fund, 2012, 1; Mikaela Gavas (2012b).


\(^{104}\) Ibid. Article 1 (1) (b).

\(^{105}\) FRAME (2014), 59-60.

Each of these priority areas are again divided into various components. As it is of interest for this research paper, it should be mentioned that there were four components defined for priority area (2) Democratic, Good Governance and Human Rights. Accordingly, (i) the governance architecture of the AU should be strengthened. (ii) The capacity of the AU to conduct election observation should be improved. (iii) Special emphasise is put on the role of civil society and non-state actors to improve democratic, good governance and human rights, as the EU recognizes their “key role” in this area. (iv) Finally, there is also funding available for initiatives regarding the public finance management of the AU.

1.3.1.2.3. The Governance Initiative: Governance Incentive Tranches (GIT)

Additionally to the geographic budget lines, the European Commission disclosed a ‘Governance Initiative’ towards ACP countries in a Communication in 2006. It is built on the European understanding, that poverty reduction cannot be achieved without “progress in the areas of economic, social, environmental and political governance.”

The Governance Initiative is based on two pillars: First, it creates ‘governance incentive tranches’. These tranches constitute additional financial resources under the EDF which are distributed to countries that are ready to commit themselves to democratic governance. Secondly, these additional resources are used to allocate supplementary funding to the African Peer Review Mechanism (APRM), a self-monitoring mechanism to promote high standards of Governance in African Union member states.

Under the 10th EDF EUR 2.7 billion were distributed for governance incentive tranches. These tranches were allocated through various steps: First the European Union and the locally represented...
member states created ‘governance profiles’, giving an “overview of nine areas governance”. In a second step, the EU delegation shared the outcome with the respective government and asked it to draw up a Governance Action Plan (GAP). These GAPs were evaluated by the COM in collaboration with the MS, identifying their “relevance, ambition and credibility.” According to this qualitative assessment the additional financial resources were allocated to the corresponding governments. These GAPs were subsequently attached to the Country Strategy Paper in form of a contract.

The additional value of this instrument is not only seen in the incentive given to governments to develop own agendas in order to perform governance reforms, but also because it was intended to facilitate dialogue on governance issues through the programming dialogue. However, in an independent study that was commissioned by COM in order to assess the Governance Initiative and formulate recommendations for the future, it was pointed out that the “political dialogue component of the [Governance Initiative] remained very weak.” In a Communication in 2013, the COM summarised the main obstacles to the Governance Initiative found by this independent study. It pointed out that the ownership of the initiative was limited, due to the tight timeframe that did – in many cases – not allow for the inclusion of key actors such as the government and civil society organisations. Secondly, the initiative was not properly aligned with already existing governance processes and plans. As a ‘stand-alone instrument’ it had limited influence on dialogues. Thirdly, the instrument appeared to be rather static and not responsive enough to respond on the “dynamic nature of governance processes.” Moreover, political and institutional capacity constrains limited the influence and effectiveness of the Governance Initiative. All in all, there was not enough harmonisation within the European Union and its member states that used various governance assessments – different from the ‘governance profile’ – in order to address governance issues in a respective state.

115 (1) Political governance: human rights, fundamental freedoms, electoral process, constitutional democracy; (2) The rule of law: judicial and law enforcement system; (3) Control of corruption; (4) Government effectiveness: institutional capacity, public finance management; (5) Economic governance: private-sector/market-friendly policies, management of natural resources; (6) Internal and external security; (7) Social governance: decent work, gender, HIV/AIDS; (8) International and regional context: regional integration, involvement in regional initiatives, migration; (9) Quality of the partnership: political and programming dialogue.

116 European Commission, Commission Staff working paper, Supporting democratic governance through the governance initiative: a review and the way forward, SEC(2009) 59 final, 2009, 8. Explicit criteria for eligibility of the additional aid allocation can be found in the Annex of the Commission Staff working paper.

117 European Commission (2009), 5-6.

118 European Commission (2009), 7.


120 European Commission (2011a), 36.


122 European Commission (2013), 5-6
The Council drew conclusions based on the report provided by the Commission, pointing out that although the Union is committed to deliver predictable funding to the governments of third countries “elements of an incentive-based approach in programming can stimulate progress and results in democratic governance.” This incentive to the partner country should therefore respond dynamically to the level of commitment and progress of the respective government towards human rights, democracy, the rule of law and good governance. This was retreated in the preamble of the Council regulation on the implementation of the 11th EDF. Especially in relation to the EU-African Dialogue and the JAES, the COM believes that the Governance Initiative “has laid the foundation for most ACP countries to commit themselves to implement governance reforms in different areas” and moreover positively contributed to the dialogue on governance issues. At the time of this research, there were no documents available stating whether the Governance Initiative will be continued in the framework of the 11th EDF.

1.3.2. Foreign Policy Instruments

Additionally to the development cooperation instruments, the European Union uses foreign policy instruments in order to promote and protect human rights and democracy as well as aspects of good governance and civil society in its external action. It should be emphasised once more that the instruments discussed in this section – except the Election Observation Missions - are decided solely within the CFSP framework, thus, require unanimous decisions by all member states. Therefore, despite all efforts of the European Union to become a more coherent foreign policy actor and speak up in one voice, the instruments are dominated by the member states. Also, the EU does not have the exclusive competence to use these instruments, as they are general instruments in international relations, which can also be taken unilaterally by EU MS.

In the case of the Election Observation Missions (EOM), on the other hand, the identification of the competence is rather complicated. While, an EOM is based on an operational action, adopted – unanimously - by the Council according to Article 28 (1) TEU, the organisation of the mission is
assigned to the European Commission together with the European External Action Service (EEAS), yet
the funds are made available from the EIDHR. Although, the European Commission plays a vital role
in the implementation of EOM, this paper allocated the EOM to the foreign policy instruments, as the
ultimate decision whether or not to send an EOM resides by the MS in the Council.

1.3.2.1. Specific Instruments for the promotion of Human Rights and Democracy

1.3.2.1.1. Human Rights Dialogues

Human Rights Dialogues and Consultations\textsuperscript{129} are used by the European Union in order to implement
its human rights policy towards third countries. Different from other EU instruments, dialogues are a
way to persuade a country to follow international human rights standards. The EU itself defined the
instrument as the “most effective approach to achieve changes in the promotion of human rights.”\textsuperscript{130}
Currently, the European Union holds these dialogues with more than 40 non-EU countries and
regional organisations,\textsuperscript{131} among them the African Union and several African states.

Human Rights dialogues highly differ from each other: objectives, content, the level of
representation required, where and how often the dialogue is to be held are determined on a case-
by-case basis.\textsuperscript{132} Despite all these differences, the EU follows two main objectives when pursuing HR
dialogues with a third country: Either the discussion of mutual interest in order to strengthen the
cooperation in multilateral fora, or a discourse about human rights violations in a specific country.\textsuperscript{133}

In order to develop a more coherent and consistent approach, the European Union issued guidelines
on human rights dialogues with third countries in 2001, which were updated in 2009, covering issues
such as basic principles, objectives and the content of as well as the procedure for the initiation of
human rights dialogues.\textsuperscript{134} According to these guidelines, there are four different types of dialogues
in which human rights can be addressed:

(1) **Political Dialogues** are dialogues or discussions of general nature. On a bilateral level the
European Union developed political dialogues with numerous countries and regional bodies.
These dialogues can include all kinds of CFSP matters, including human rights, the role of civil
society and good governance.

\textsuperscript{129} The term ‘consultation’ was introduced when the EU started HR consultations with Russia; Russia refused
the term ‘dialogue’ as it did not want to be put in the same category as Iran and China. As consultations are not
relevant for the African Continent, only the term dialogue will be used in this paper.
\textsuperscript{130} European Commission (2001b), 8.
\textsuperscript{131} European External Action Service, Factsheet Human Rights Dialogues, 2014; hereinafter cited as European
\textsuperscript{133} European Union (2009), 5-6.
\textsuperscript{134} European Union (2009).
(2) Human Rights Dialogues are a structured form of dialogue and focus exclusively on human rights.

(3) Ad hoc Dialogues are established ad hoc and can extend to CFSP-related topics such as that of human rights.

(4) And lastly, dialogues in the context of special relations with third countries. These Dialogues can exist in parallel to each other and on various levels. For instance, there is a specific human rights dialogue between the EU and the AU, but also human rights dialogues and political dialogues with member states of the AU. Also, several of the EU MS hold regular dialogues with African states.

Good governance plays a central role in these dialogues. Although the content – as already pointed out - differs from case to case, the EU developed a list of priority issues “which should be included on the agenda for every dialogue.” Amongst others the EU foresees “the promotion of the processes of democratisation and good governance” as one of these priority issues.

In relation to ACP states, Article 8 of the Cotonou Agreement contains special provisions to establish the so-called ‘Article 8 Dialogue’. Since this dialogue is grounded on the Cotonou Agreement, it falls into the competence of the European Union, thus, is managed by the European Commission. However, according to a study conducted in 2014 “it is regular practice for the EU to engage with Member States [...] represented in partner countries” in order to coordinate their actions and ensure a greater impact on their common priorities. The presence of representatives of various MS besides EU officials in the political dialogue in the countries evaluated in the study is a “consolidated practise”, whereas the modalities and numbers vary dependent on the respective country. Moreover, the study suggests, that the presence and alignment of the European Union with its member states, ends in a more effective political dialogue.

The Cotonou Agreement itself does not deal with operational guidelines in order to make the dialogues more flexible and capable to adapt for case-specific approaches. Dialogues can be held within the institutional framework, but also outside; they can be held in a formal or informal manner; and moreover these operational guidelines point out the possibility to associate regional organisations, civil society organisations, as well as ACP national parliaments, to the dialogues.

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135 European Union (2009), 2-4.
137 European Union (2009).
139 The study contained an evaluation of the Article 8 Dialogue in the following countries: Cameroon, Chad, Ethiopia, Gambia, Nigeria, Rwanda, Uganda and Zimbabwe.
140 Directorate-General for external policies (2014b).
“where appropriate.” 141 The element of the inclusion of CSOs in the Article 8 Dialogue is further strengthened through Article 2, which states that ‘participation’ is a fundamental principle of the relations between the EU and ACP states, thus the agreement recognises “the complementary role of, and potential contributions by, non-state actors”. 142

Thematically, the agreement states that “all the aims and objectives laid down in this Agreement” shall be included in the discussions. Specifically, the essential and fundamental elements of the agreement shall constitute an “important subject for the political dialogue” 143. A “regular assessment of the developments concerning these principles shall be conducted” 144, but taking into account “each country’s economic, social, cultural and historical context.” 145

One objective of the Article 8 Dialogue is to reduce the necessity of the consultation procedures set forth in Article 96 and 97 Cotonou Agreement. To the same cause, an “Intensified Political Dialogue” was established in the 2005 revision of the Cotonou Agreement. Contrary to the regular Article 8 Dialogue, the intensified political dialogue sets forth a “systematic and formal” 146 approach, stating that every option possible shall be taken, before entering into the consultation procedure. The ACP states consider intensified political dialogues as less confrontational, since there is no possibility of aid suspension. 147

1.3.2.1.2. EU Special Representative for Human Rights

The European Union Special Representative for Human Rights (EU SRHR) is the first thematic special representative appointed by the EU and therefore constitutes a strong signal of the commitment of the EU to promote human rights worldwide. 148 Mr. Stravos Lambrinidis was appointed in July 2012 as a part of the ‘human rights package’. By appointing a special representative, the EU seeks to foster its presence, effectiveness and visibility in the area of human rights worldwide and also improve the coherence between the relevant actors in the Union in this field.

**Good governance** is included in the policy objectives of the EU SRHR, as he is to enhance “the Union’s contribution to the strengthening of democracy institution building, the rule of law, good governance, the respect for human rights and fundamental freedoms worldwide.” 149 Moreover **civil society** enjoys particular attention of the EU SRHR. Not only is “enhancing the dialogue […] with civil

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141 The Cotonou Agreement (2010), Article 8.
142 Directorate-General for external policies (2014b), 7.
143 The Cotonou Agreement (2010), Article 9.
144 The Cotonou Agreement (2010), Article 8.
society organisations [...] in order to ensure the effectiveness and the visibility of the Union’s human rights policy*150 included in the mandate of the EU SRHR. Also, the EU SRHR is bound to “seek regular contact with civil society organisations”151 with the purpose of ensuring the unity and consistency of the Union’s action.

1.3.2.1.3. Human Rights and Democracy focal points

The main objective of the human rights focal points is to facilitate and coordinate the local implementation of human rights country strategies. The focal points inform about local developments and address individual cases, as well as deliver démarches and conduct outreach on EU priorities at relevant UN bodies.152 Human Rights focal points now exist in all EU Delegations and common security and defence policy missions all over the world,153 as set out by the Action Plan on Human Rights and Democracy.154

1.3.2.1.4. Electoral support

Although elections are not be equated with democracy, they are considered to be an important step in the democratisation process as well as necessary to guarantee the full enjoyment of a wide range of human rights155, such as the freedom of expression, assembly, and of association. Moreover, free and fair elections are considered to be an important element of good governance. Elections might legitimise a political authority, or be significant in the context of accountability and the rule of law.156 The observation of these elections on the other hand provides them with an added value and might build trust of the public through transparency and surveillance.

Due to these facts, the EU is strongly committed to provide electoral support to third countries. This support mainly consists of two aspects: EU Election Observation Missions (EOMs) and Election Assistance. As these two tools are funded under different instruments of the EU’s external action – EOMs through the EIDHR, whereas Electoral Assistance usually through geographic budget lines – it is also different actors which decide on the implementation of these tools. Thus, as geographic budget lines, such as the EDF, are planned and implemented in coordination with the respective governments, the national authorities are included in the decision making process on the Electoral Assistance. EOMs on the other hand operate and report independently from the national authorities.

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150 Council of the European Union (2012a), Article 3.
151 Ibid. Article 11.
153 Ibid., 41.
154 Council of the European Union (2012b), Action 5 (b)
as their funding derives primarily from the EIDHR. Yet, both instruments can only be employed with the consent of the authority concerned\textsuperscript{157, 158}

The EOM’s could, again, be divided into two different components: A short-term observation mission, which focuses its activity on the election day, and complementary a long-term observation mission, which includes aspects before and after the election.\textsuperscript{159} The latter is sent to the regions four to six weeks prior to the election. Therefore, the EU recognizes the fact that elections are not a one-day-event. Registration of voters, candidates and parties as well as freedom of media and assembly and the enjoyment of human rights play a vital role in the pre-electoral process.\textsuperscript{160} Both observation missions gather information regarding to the electoral process. On the basis of this information, a preliminary statement is issued within 48 hours after the election\textsuperscript{161}, followed by a final report, which contains an analysis of the process of the election, as well as recommendations for improvement.\textsuperscript{162}

**Election assistance** complements the EOMs. This additional support is used in a broad range of activities, including “voter registration, civic education, assistance to national electoral commissions, drafting of electoral laws, training of election officers and national observers, media support and monitoring and support for the participation of minorities”\textsuperscript{163}, amongst others.\textsuperscript{164} This assistance is usually given in cooperation with UNDP, however, the EU is also committed to strengthen its relationship with regional and sub-regional organisations in this regard, as for example with the Southern African Development Community’s (SADC), the Economic Community of Central African States (ECCAS) and the African Union.\textsuperscript{165}

Election observation and assistance is not an instrument used in any election. They are seen “as a political statement per se.”\textsuperscript{166} These tools are used in addition to political and human rights dialogues, in order to promote human rights, democratisation as well as the rule of law and good governance in third countries constituting one of the EU’s major soft powers.

\textsuperscript{157} Every EU EOM needs a formal agreement with the partner country, usually a Memorandum of Understanding.


\textsuperscript{159} Patrick Dupont, Francesco Torcoli and Fabio Bargiacchi (2010), 316.


\textsuperscript{162} European Commission (2003b), 12.

\textsuperscript{163} European Commission (2000b), 31.

\textsuperscript{164} For further information on the EMO’s process see European Commission (2008).

\textsuperscript{165} Patrick Dupont, Francesco Torcoli and Fabio Bargiacchi (2010), 8.

\textsuperscript{166} European Commission (2003b), 7.
1.3.2.1.5. European Endowment for democracy

The European Endowment for democracy (the Endowment or EED) is a fund under Belgian law autonomous from the European Union with the objective of promoting and encouraging democratization.\textsuperscript{167} Although as an autonomous instrument, it is not a ‘European Instrument’ as such, it works complementary to the EU’s toolbox and seeks to address its deficiencies.

There are three main characteristics of the EED. First, as the EIDHR, the Endowment focuses on the support of civil society organisations and institutions.\textsuperscript{168} However, it seeks to address the limitation of the EIDHR, which is not able to effectively fund several NGOs or opposition groups. It is understood that the Endowment should only fund initiatives, which cannot be supported by other means. Secondly, through the separation of the EED from the EU budget, it should be able to act flexible and without taking account of the EU’s bureaucracy.\textsuperscript{169} According to Article 10 of the EED Statute the Endowment is mainly funded by voluntary contributions of member states, but can also be elected for funds under EU instruments. The backside of its independency from EU budget is the lack of stability of its resources.\textsuperscript{170} And thirdly, the Endowment mainly focuses on the European Neighbourhood. Currently it is present in five African states: Morocco, Algeria, Tunisia, Libya and Egypt.

1.3.2.2. Other instruments, contributing to the promotion of Human Rights and Democracy

The European Union seeks to positively contribute to the promotion of human rights and democracy through its action in multilateral fora. Especially through statements and interventions or thematic and country-specific initiatives the EU draws the attention of the international community to human rights violations. In this context the EU defined priorities of its action in UN human rights fora. These priority areas include the role of civil society organisations, specifically in connection to freedom of association and assembly, as well as “democratic governance, the rule of law and the full relation of human rights”\textsuperscript{171}.

Next to these actions that are set in the framework of international fora, the EU is also capable of setting stronger actions outside the framework of dialogues. These actions can take various forms, but at the same time all have the aim to express the concern of a situation in a specific state and constitute a strong political force. Démarches are the weakest of these instruments. They are

\textsuperscript{167} European Union, Statutes: European Endowment for Democracy, Article 1 and 2.
\textsuperscript{168} Ibid Article 3.
\textsuperscript{169} Solveig Richter, Julia Leininger, Flexible and Unbureaucratic Democracy Promotion by the EU? The European Endowment for Democracy between Wishful Thinking and Reality, In SWP Comments 26, August 2012.
\textsuperscript{170} Ibid.
\textsuperscript{171} Council of the European Union, Council Conclusion on EU Priorities at the UN Human Rights Fora, 2013, paragraph 18 and 20; hereinafter cited as Council of the European Union (2013c).
“generally confidential messages to other governments delivered by the ambassadors of the troika or just the presidency.”172 This instrument is used in order to silently request further information on policies or to address human rights concerns in a specific country.

**Declarations and statements** on the other hand are published officially, in order to express concern about a specific situation, as for example human rights violations, an electoral process or to endorse a development in another country. The declarations are issued by the High Representative of the Union for Foreign Affairs and Security Policy and published on the EEAS webpage.173

And lastly **restrictive measures (or sanctions)** constitute the most intervening instrument in this regard. Sanctions are imposed in order to encourage the targeted country, government, entity or individual to change their policy or action and can take various forms.174 These forms include “freezing of funds and economic resources, restrictions on admissions, arms embargos, embargos on equipment that might be used for internal repression, other export [and] import restrictions and flight bans.”175

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174 A Consolidated list of persons, groups and entities subject to EU financial sanctions is available online and regularly updated, see http://eeas.europa.eu/cfsp/sanctions/consol-list/index_en.htm.
2. EU external action tools to strengthen Good Governance and Civil Society in Ethiopia

After having identified the EU’s position and ‘toolbox’ towards Africa, the second chapter will focus on the European Union’s contribution to good governance and the role of CSOs in Ethiopia. First, the chapter will start with an identification of the current areas of concern regarding good governance and civil society in Ethiopia. An analysis of reports of relevant international bodies should provide insights in the challenges Ethiopia faces in governance issues. Subsequently, the EU’s position towards Ethiopia, and in particular its aims to act in a coherent way will be discussed. Finally, the third part of this chapter seeks to explain the European Union’s engagement in Ethiopia, by identifying which instruments of the EU’s external action toolbox are enforced in Ethiopia, also by assessing the EU’s reactions to the Ethiopian’s general elections in 2005 and 2010.

2.1. Ethiopia: Areas of concern

This chapter has the aim to present the main areas of concern regarding good governance and civil society in Ethiopia. Four international documents served as the basis for identifying these areas of concern, namely the Universal Periodic Review (UPR) - the review on Ethiopia took place in 2014 – the concluding observations of the Human Rights Committee (HR Committee) regarding Ethiopia’s fulfilment of the International Covenant on Civil and Political Rights (ICCPR) of 2011, the concluding observation of the Economic and Social Council regarding Ethiopia’s fulfilment of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 2012, as well as Ethiopia’s country report under the African Peer Review Mechanism (APRM), which was published in January 2011. In order to explain the context of these reports, further information on legislation and practice is provided through additional secondary literature.

The three areas of concern that were identified during this research will be discussed in more detail below. These areas are:

(1) Democratisation and Political Reforms
(2) Freedom of expression and association and
(3) Corruption.
2.1.1. Democritisation and Political Reforms

Ethiopia is one of the oldest countries in the world and the only country in Africa that has never been colonized, except for a short-lived period of Italian occupation. Its history, however, doesn’t show long periods of peace which also caused many drawbacks in its socio-economic and political process. It was not until 1991, when the Ethiopian People’s Revolutionary Democratic Front (EPRDF) accomplished to overthrow the Derg regime, which ruled Ethiopia from 1974, and herewith introduced relative peace and political stability to Ethiopia. In the last two decades, the EPRDF, which was the ruling party in Ethiopia ever since, managed to achieve major progress in various areas. The Federal Democratic Republic of Ethiopia (FDRE) Constitution, which was introduced in 1994, brought a federal democratic system, which consists of a federal government as well as nine regional states, aiming to accommodate “the country’s high degree of ethnic and religious diversity.” Moreover, the constitution lists several fundamental rights and freedoms, consisting of “human rights” and “democratic rights” to the Ethiopian law.

Two documents which were issued in recent years require separate mentioning: First, the Growth and Transformation Plan (GTP) being Ethiopia’s “single most important policy document.” The GTP sets out a development plan aiming at the achievement of “broad-based, accelerated and sustained economic growth.” In particular, the GTP sets out seven strategic pillars to achieve economic growth and specifically mentions the “building of capacity and deepen good governance” as one of them.

Secondly, the first National Human Rights Action Plan (NHRAP) of Ethiopia was adopted in 2013. This NHRAP is to be implemented in parallel with the GTP aiming to “better realize human rights in a comprehensive and structured manner, to accelerate the process of building good governance and democracy, and to ensure the sustainability of economic development.” The adoption of the NHRAP is a response to the Vienna Declaration and Programme of Action of 1993 which stated that “each state [should] consider the desirability of drawing up a national action plan identifying steps

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176 Ethiopia was only colonized during 1936 to 1941 by Italy.
181 Ibid., 22.
183 Ibid.
whereby that state would improve the protection and promotion of human rights.”

Furthermore, Ethiopia received specific recommendations to ensure the full implementation of the NHRAP during its consideration under the UPR in 2014.

However, moving from a repressive and authoritarian system to a federal democracy led by the rule of law, as well as the transformation from a state-dominated economy to a market-oriented economy, has certainly caused several difficulties. The challenges are standing in a strong connection to Ethiopia’s history and are still hampering its development to a democratic state.

First to mention in this context is the still existing dominance of the ruling party. The report rightly points out that respect for opposition is – especially in a democratic culture that is still not fully developed – crucial. In Ethiopia the EPRDF would not show respect for the opposition and “tend[ds] to employ every measure to ensure that [the day it will become opposition itself] never comes.” This would “help to sow seeds of disunity and distrust.”

Democratic centralism remains the governing principle introduced by the ruling party which is, according to the APRM, a barrier to finding compromises and consensus. A strong and strict party discipline is being enforced, even down to the level of local communities and neighbourhoods. As stated in the APRM, the Ethiopian People’s Revolutionary Democratic Front is “closely control[ing]” the political processes. It furthermore notes a “tremendous deficit in political engagement by key actors.” Hence, a democratic alternation, which is an essential part of democracy, is “seriously undermined.”

Since 1991, several elections have taken place in Ethiopia. The first elections were the constituent assembly elections in 1994, followed by the “country’s first popularly-elected national parliament and regional councils or legislatures, in May and June 1995.” The first elections with multiple parties were held in 2000, followed by elections in 2005 and 2010, the latter showing an astonishing 93 percent voter participation. Elections in Ethiopia, and in particular the 2005 elections, “have been contentious and controversial.” Allegations range from fraud and vote-rigging to intimidation at constituency levels against the ruling coalition party.

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186 Ibid., 78, para 128.
187 Ibid., 78, para 128.
189 Ibid., 31, XXIX.
190 Ibid., 59, para 75.
191 Ibid., 78, para 128.
192 Ibid., 85, para 152.
193 Ibid., 85, para 154.
The dominance of the ruling party is also related to the criticism on the **democratic institutions**. As shown above, issues such as good governance, the rule of law and human rights emerged in Ethiopia after 1991. Within this context, it was agreed that democratic institutions could help significantly to build democratic governance and a democratic system within the country. Therefore, five democratic institutions were established in the following years, namely the Ethiopian Human Rights Commission (EHRC), the Ethiopian Institution of Ombudsman (EIO), the Federal Ethics and Anti-Corruption Commission (FEACC), the National Electoral Board of Ethiopia (NEBE) as well as the House of Peoples Representatives (HOPR). These democratic institutions play an important role in the establishment of good governance by protecting human rights and serving as ‘watchdog’ against government actions. Therefore, many donors choose to support these institutions, as they believe that this would help “to develop a fully democratic, accountable and responsive constitutional federalism, ensuring citizens empowerment and participation.”

Although the importance of democratic institutions seems to be generally acknowledged by all stakeholders, the existing institutions have been subject of criticism in the respective international reports. Specifically, the governance of these institutions was object of concern, as well as their independency from the government, their transparency and their financial resources. The APRM pointed out the “urgent need to strengthen cross-national and oversight institutions, like the NEBE, EHRC, the FEACC, and the EIO, among others”. More specifically, it called attention to the need to “enhance and strengthen the institutional and resource capacity of the Parliament, the EHRC, the EIO and the NEBE” in order to allow them to carry out their mandates effectively.

Also the Human Rights Commission commented on the democratic institutions in Ethiopia. Although it welcomed the establishment of the EHRC it pointed out that it was not yet compliant with the Paris Principles. Specifically it addressed the fact, that the EHRC has not yet made recommendations regarding laws, has only investigated few alleged human rights violations, and moreover claimed that

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195 The FEACC will be addressed in the Chapter dealing with Corruption.
196 Mohammed (2014).
198 Mohammed (2014).
“its recommendations and suggestions following its monitoring of correctional facilities were not implemented by the State Party.”\textsuperscript{202} Several states noted the need to strengthen the role and mandate of the EHRC during Ethiopia’s evaluation under the UPR.\textsuperscript{203}

Regarding the \textbf{Ombudsman Institution}\textsuperscript{204}, the APRM noted that there is “a glaring absence of an Ombudsman to protect and promote equity and social justice.”\textsuperscript{205} Although, the report points out that it is aware of the fact that it takes time and resources to establish a new organisation, “the appropriate sacrifices need to be made to ensure that they become functional and contribute as they are supposed to in a conflict-prone federal democratic experiment.”\textsuperscript{206} During the UPR of Ethiopia several states made recommendations regarding the strengthening of the Ombudsman Institution that were also fully supported by Ethiopia.\textsuperscript{207}

Even though, a clear progress can be seen by these initiatives – the inclusion of good governance in the GTP, the establishment of a NHRAP and the construction of several democratic intuitions – criticism, especially regarding the dominance of the ruling party and the dependency of all institutions, including the democratic institutions, on the latter still prevails.

\subsection*{2.1.2. Freedom of expression and association - CSOs}

There was also a significant concern about freedom of expression and association in Ethiopia in all the reports examined. In specific, Ethiopia passed three laws – allegedly as a response to the outcome of the 2005 elections\textsuperscript{208} – that were discussed and criticised in the relevant fora and literature. All of these laws were issued in the time period between 2008 and 2009, namely the Proclamation on the Freedom of Mass Media and Access to Information (the Mass Media Proclamation), the Charities and Societies Proclamation and the Antiterrorism Proclamation,

Many concerns were noted regarding the \textbf{Mass Media Proclamation}\textsuperscript{209} and press laws, especially in the context of reports of prosecutions of journalists, editors and publishers “for alleged violations of

\footnotesize{\textsuperscript{202} Human Rights Commission (2011), 6.}
\footnotesize{\textsuperscript{203} Recommendations that enjoyed the full support by Ethiopia were made by Mauritius, Afghanistan, Nicaragua, Kenya, Namibia, Mali, amongst others. Human Rights Council (2014a).}
\footnotesize{\textsuperscript{204} For further information on the mandate of the Ethiopian Ombudsman, please read: Ali, The Role of the Ethiopian Ombudsman Institution in Good Governance, in Benedek, Pippan, Woldetsadik, Yimer (2014), 41 – 59.}
\footnotesize{\textsuperscript{205} African Peer Review Mechanism (2011), 74, para 119.}
\footnotesize{\textsuperscript{206} Ibid.}
\footnotesize{\textsuperscript{207} Recommendations that enjoyed the full support by Ethiopia were made by Kenya and Serbia. Human Rights Council (2014a).}
\footnotesize{\textsuperscript{208} See further: Asfaw (2014), Del Biondo (2011) and Del Biondo (2015a).}
\footnotesize{\textsuperscript{209} Federal Democratic Republic of Ethiopia, Proclamation No 590/2008, in Federal Negarit Gazeta of the Federal Democratic Republic of Ethiopia 2008.}
press laws.” The fear of media centres of closure and penalties led to the “distorting public statements from opposition politicians.” This fear also forced journalists and publishers “to routinely practice self-censorship.” And in fact, several newspapers were forced to shut down and journalists were accused and prosecuted for alleged violations of press laws.

Regarding the Charities and Societies Proclamation two outstanding issues are criticised by the international community as well as local NGOs: Firstly, the division between ‘local’ and ‘foreign charities’, the latter not being able to work in areas of human rights, good governance and advocacy. And secondly the 70/30 guideline, stating that organisations falling under this proclamation are not allowed to spend more than 30% of their budget on ‘administrative costs’, whereby the definition of ‘administrative cost’ is considered to be too broad.

Regarding the first issue it needs to be pointed out that the Ethiopian constitution undertakes a distinction between ‘human rights’ – Articles 14 to 28 of the Constitution – and ‘democratic rights’ – Articles 29 to 44 of the Constitution. While the right to life, liberty, the prohibition of torture and the right to privacy are ‘human rights’, ‘democratic rights’ have a greater connection to governance, the rule of law and access to justice. Hence, ‘democratic rights’ are rights such as the freedom of thought, opinion and expression, the right to assembly, association as well of the rights of women and children and access to justice. These rights are considered to be reserved for nationals.

Based on this distinction, the Charities and Societies Proclamation issued in 2009, only allows certain NGOs to work in the field of ‘democratic rights’. The proclamation undertakes a classification of three distinct types of organisations based on the origin of their income: Ethiopian Charities or Societies – only 10 percent of their funds can be raised from foreign sources, – Ethiopian Resident Charities and Societies – these organisations receive more than 10 percent of their funding from foreign sources – and foreign charities and societies – those who are registered abroad. According to the proclamation,

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210 African Peer Review Mechanism (2011), 27 para XIX.
211 Ibid.
212 Ibid., 93 para 178.
only Ethiopian charities or societies are allowed to work in the areas of ‘democratic rights’, thus, issues of human rights, advocacy and good governance.\textsuperscript{217}

The Human Rights Committee claimed that “this legislation impedes the realisation of the freedom of association and assembly”\textsuperscript{218}, because several NGOs and associations could not register under this proclamation or were forced to change the activity they engaged in. Also the Committee on Economic, Cultural and Economic rights noted with concern that the proclamation “[has] had a profound obstructive effect on the operation of human rights organizations.”\textsuperscript{219} The issue of the restrictions imposed by the Charities and Societies Proclamation were also noted during the UPR by several states, however, none of these recommendations were accepted and thus only noted by Ethiopia.\textsuperscript{220} Moreover, the limitation of CSOs that are allowed to work in justice and advocacy seriously affected the access to justice, as many NGOs were involved in the provision of free legal aid. Organisations such as the Ethiopian Women Lawyers Association were forced to close regional offices and suspend some of their services.\textsuperscript{221}

The second issue at hand regards the so-called \textit{70/30 guideline}, which was approved by the Charities and Societies Agency in 2011. The guideline determines, that at least 70 percent of the funds of an organisation that runs under the Societies and Charities Proclamation must be spent on operational costs, whereas not more than 30 percent can be spent on administrative costs. Although donors as well as the government of Ethiopia agree that generally “the majority of development aid should reach the final beneficiaries,”\textsuperscript{222} the criticism regards the classification of what an ‘administrative cost’ is considered to be which could have – according to the international community - a negative impact on the implementation of projects and programmes in Ethiopia. While other countries, like Canada, enforce stricter regulations in this regard, it is argued that due to mobility constrains and the exhaustive interpretation of ‘administrative costs’, the guideline will compromise the quality of project implementation, reduce capacity and knowledge transfer as well as negatively affect the work in emerging regions.\textsuperscript{223}

\textsuperscript{217} Asfaw, Collision of Norms – Domestic Politics and International Human Rights Standards: Commentary on the Ethiopian Charities and Societies Proclamation, in Benedek, Pippan, Woldetsadik, Yimer (2014), 159 – 175.
\textsuperscript{218} Human Rights Commission (2011), 7, para 25.
\textsuperscript{220} Recommendations were issued by Australia, Austria, Belgium, Czech Republic, France, Hungary, Ireland, Netherlands, Norway, Sweden, Slovakia, and United States; Human Rights Council (2014a), 24 – 28.
\textsuperscript{221} Committee on Economic, Social and Cultural Rights (2012); and Human Rights Commission (2011).
\textsuperscript{222} Development Assistance Group, Potential Impact on Guideline to Determine Charities’ and Societies’ Operational and Administrative Costs (70/30), 2012, 4.
\textsuperscript{223} Development Assistance Group (2012).
Lastly the **Anti-Terrorism Proclamation**\(^{224}\) is also subject to serious criticism by the international community. The objective of the law is, according to the Government of Ethiopia, to counter terrorism and to create “adequate legal provisions since the laws [that were previously] in force [in Ethiopia were] not sufficient to prevent and control terrorism.”\(^{225}\) However, the definition of certain offences in the Proclamation is unclear and the scope of some provisions very broad\(^{226}\), “including the criminalization of encouragement of and inducement to terrorism through publications.”\(^{227}\)

Amongst others, there are allegations of arrests, detention and charging under the anti-terrorism proclamation of journalists and opposition politicians.\(^{228}\) The UN High Commissioner for Human Rights stated in December 2012 that “she was seriously alarmed about the climate of intimidation of human rights defenders and journalists, resulting from the overly broad laws on terrorism and civil society registration”\(^{229}\) and urged Ethiopia to revise these legislations.

### 2.1.3. Corruption

Reasons for corruption can be numerous. Ethiopia itself sees the major reasons for corruption in the country in “poor governance; lack of accountability and transparency; low levels of a democratic culture and tradition; inadequate accounting; a weak legal and judicial system; the collapse in moral values; and, an over-regulated bureaucracy.”\(^{230}\) While some donors believe that corrupt practices in Ethiopia are less frequent than in other African states, and therefore call less attention to it,\(^{231}\) corruption still remains a serious problem in Ethiopia. Transparency International identified in its corruption perceptions index of 2014, that Ethiopia was ranked 111 out of 177 countries with a score of 33 on a scale where 100 is the best – very clean – and 0 the worst – highly corrupt. Thus, Ethiopia in fact ranks better than its neighbouring countries, but is performing worse than Ghana, Mali or Senegal, for instance.\(^{232}\)


\(^{225}\) Ibid, Preamble.


\(^{228}\) *Human Rights Council* (2014c).


\(^{231}\) *Del Biondo* (2015b).

In recent years, Ethiopia experienced some improvements in the perception of corruption, which possibly stands in connection to the activity of the Federal Ethics and Anti-Corruption Commission which was established in May 2001. The FEACC is one of the democratic institutions which is entitled with three main and interrelated tasks: the investigation, prosecution and prevention of corruption. However, the main part of the FEACC work was related to “prevention through ethics and anti-corruption education.”

Criticism around the FEACC revolves mainly around its alleged dependency of the government of Ethiopia. The report of the APRM states, that there is a need for the FEACC “to be more independent to avoid the perception that it is being used as a tool to harass political opponents.”

Even though it indicates that “it is not in a position to verify the opposition parties’ allegations of bias against FEACC,” it recommends that a national dialogue on how to strengthen the FEACCs institutional framework would help “to win acceptance across the political spectrum.”

### 2.1.4. Summary: Main areas of concern

The concerns, as stated above, regard three main areas: Firstly, the dominance of the ruling party and its mistrust in the opposition and CSOs strongly hinders good governance. Cooperation with the opposition party in a multi-party democracy is vital, especially in an emerging democracy such as Ethiopia.

Secondly, current legislation seriously affects the work of civil society organisations and journalists working in Ethiopia, particularly their freedom of speech and assembly. In specific the Charities and Societies Proclamation, which prohibits organisations which receive more than 10 percent of their funding from foreign sources to work in the fields of advocacy, human rights or governance is viewed very sceptical by the international community. It has been alleged that Ethiopia views NGOs either “as an embodiment of foreign agents who have no constituency but are controlled and dependent on external grants, and are accountable to foreign governments/donors” or as “being part of the opposition camp,” and thus doesn’t want to cooperate with them. Moreover, the Anti-Terrorism Proclamation entails definitions that have been alleged to be applied too broadly, resulting in

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236 African Peer Review Mechanism (2011), 38, para LXIV.
238 Ibid.
239 Asfaw (2014), 165.
240 Ibid., 167.
journalists, editors and publisher to violate the provisions set out in the proclamation. Respect and cooperation with the opposition parties as well as civil society organisations is crucial for any emerging democracy.

And lastly, the presence of corruption not only hinders the trust of citizens in the government, but also has negative effects on key areas of good governance, such as the rule of law and accountability. In fact, it still plays a major barrier on Ethiopia’s path towards good governance.

Although major progress can be observed when comparing the current situation of Ethiopia to prior 1991 – such as multi-party elections, the national human rights action plan, as well as the establishment of democratic institutions - there is a “growing concern that the country’s political environment has deteriorated in recent years.”

Even though the positive events are not to be neglected, challenges that still remain should not be ignored.

2.2. The EU in Ethiopia

Ethiopia is one of the oldest democracies in Africa and has made major progress in development, as reflected in its progress to meet most Millennium Development Goals by 2015. In the fiscal year of 2012/2013 Ethiopia’s economy grew by 9.7 percent and moreover Ethiopia was the 12\textsuperscript{th} fastest growing economy in the world in 2012.\textsuperscript{242} Even though the Government of Ethiopia (GoE) is committed to pro-poor development policies, the country in the Horn of Africa still faces major challenges.\textsuperscript{243} Ethiopia remains one of the poorest countries in the world and was ranked 173 out of 187 countries in the Human Development Report 2013.\textsuperscript{244}

The European Union has been engaged in Ethiopia for more than forty years - since the adoption of the Lomé Convention in 1975 – and was ever since steadily present in Ethiopia, also by allocating a large amount of its development aid to the country. Currently, Ethiopia constitutes a priority country for the operations of ten EU MS as well as the EU itself.\textsuperscript{245} Although the European Union’s engagement in Ethiopia goes far beyond development assistance and crisis management, development assistance does play a vital role in the partnership.\textsuperscript{246} In 2010, the EU, its member states and Norway allocated USD 1.095 million of Official Development Assistance (ODA) to Ethiopia.\textsuperscript{247}

Considering the vast amount of financial assistance that is assigned by the EU, its member states as well as other countries to Ethiopia, the importance of coordination and coherence between these actors is obvious. Next to the Cotonou Agreement and the Africa-EU Strategic Partnership, which form the base of the cooperation between the EU and Ethiopia, the EU developed four documents which are aiming to coordinate and lead the action of the institutions of the European Union and its member states in Ethiopia: The EU Strategic Framework for the Horn of Africa\textsuperscript{248}, the EU+ Joint Cooperation Strategy for Ethiopia\textsuperscript{249}, a Human Rights Action Plan and an EU Country Roadmap for the Engagement with Civil Society in Ethiopia. Unfortunately, as the latter two are not publicly available, they cannot be specifically addressed within this research paper.

\begin{footnotesize}
\begin{itemize}
  \item \textsuperscript{242} \textit{African Economic Outlook}, Ethiopia, 2014.
  \item \textsuperscript{243} \textit{European Union ‘+’} (2013).
  \item \textsuperscript{245} Ethiopia is considered a priority country by Austria, Czech Republic, Germany, the European Union, Spain, Finland, Ireland, Italy, Netherlands, Sweden and the United Kingdom. France, Poland, Belgium, Denmark, Greece and Portugal also provide ODA to Ethiopia; \textit{European Union ‘+’} (2013).
  \item \textsuperscript{246} \textit{Directorate-General for external policies (2012).}
  \item \textsuperscript{247} \textit{European Union ‘+’} (2013).
  \item \textsuperscript{248} \textit{Council of the European Union, Council Conclusions on the Horn of Africa}, 2011.
  \item \textsuperscript{249} \textit{European Union ‘+’} (2013).
\end{itemize}
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Furthermore, the Council of the European Union regularly issues an **annual report on human rights and democracy**, assessing – thematically and country specific – areas of concern to the European Union in third countries. Within this report, the Council reported also on the situation in Ethiopia and identified the same areas of concern that were illustrated in the section above. The limitation of the freedom of expression and the media, the reduction of political space of opposition groups as well as the limited space for civil society are regarded with concern by the EU. In particular, the Charities and Societies Proclamation and the Anti-Terrorism Proclamation, which was “used to justify further arrests and trials of journalists and political opponents in 2013”\(^{250}\), were pointed out.

The **EU Strategic Framework for the Horn of Africa**\(^{251}\) is an acknowledgement of the importance the Horn of Africa constitutes to the European Union. While the EU is aware of the great diversity of the countries at the Horn of Africa, it points out that the problems of the region are “inextricably intertwined”\(^{252}\) and can therefore only be jointly solved. With this strategy the EU seeks to act more coherent and moreover to be recognized “as an actor in its own right.”\(^{253}\) According to the strategic framework, the major problems lie in the inter-state rivalry – specifically the frozen border dispute between Ethiopia and Eritrea – poverty, migration, climate change and the lack of a regional organisation that would be effective enough to manage the disputes in the Horn. Moreover, the framework also deals with democracy and governance issues, pointing out “the need for a valid opposition as a necessary outlet for the expression of diverse political views and the settling of differences of opinion”\(^{254}\) especially regarding recent events in North Africa and the Arabian Peninsula.

Not even half a year after adopting the strategic framework for the Horn of Africa, an **EU+ Joint Cooperation Strategy for Ethiopia**\(^{255}\) (EU+ Strategy) was issued in January 2013. The EU+ Strategy primarily focuses on two parts. A “common vision of development challenges” of Ethiopia, followed by common priorities and objectives in supporting Ethiopia in achieving developmental progress.

According to the strategy, the EU+ partners identified nine priority areas, including amongst others governance, regional economic integration for regional stability, human and social development and gender. The first priority listed - also underlining its importance - is ‘Governance’ “as a key for long


\(^{251}\) The Horn of Africa in the framework of the EU Strategic Framework for the Horn of Africa involves the countries belonging to the Inter-Governmental Authority for Development (IGAD): Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan, South Sudan and Uganda.

\(^{252}\) **Council of the European Union (2011)**, 4.

\(^{253}\) **Directorate-General for external policies (2012)**, 7.

\(^{254}\) Ibid., 5.

\(^{255}\) The document was issued by the EU as well as Norway, therefore “EU+”.


term sustainable development.” More specifically, the strategy draws attention to civil society organisations and citizens’ participation. Moreover, the EU+ partners seek to support capacity building in the areas of justice and democratic institutions.

In order to coordinate with other donors in Ethiopia, the European Union is a member of the Development Assistance Group (DAG), a forum of donors which was established in 2001 to facilitate the exchange of information amongst them. Currently, the DAG consists of 27 bilateral and multilateral donors, which are providing assistance to Ethiopia, including eight member states of the European Union as well as the EU itself. The DAG integrates predominantly two priority areas in its work: First, the coordination between the various stakeholders, including information sharing in the monthly meetings. And second, the DAG seeks to foster harmonization of the various programmes and projects conducted in Ethiopia. While the harmonization is an important factor, it is becoming increasingly complex in Ethiopia. A programme always also constitutes a vehicle for the establishment of a relationship with the various institutions in Ethiopia. Therefore, if a country provides support through a multi donor programme, this special relationship might get diminished. Nevertheless, the EU and its MS regularly participate in the meetings of the DAG and also engage in and support some initiatives developed in this group as will be discussed in the following section.

257 DAG Members: African Development Bank, Australia, Austria, Belgium, Canada, Denmark, DFID, European Union, FAO, Finland, France, Germany, IMF; India, Ireland, Israel, Italy, Japan, The Netherlands, Norway, Spain (AECID), Sweden, Turkish International Cooperation Agency, UNDP, UNESCO, USAIF and the World Bank.
258 Interview, Chrysantus Ayangafac, Chair of the DAG Governance Technical Working Group, UNDP, Addis Ababa 27.8.2014.
2.3. EU support for Good Governance and Civil Society in Ethiopia

The following section will assess the instruments and tools the European Union uses to support good governance and civil society in Ethiopia. As was shown in the previous chapters, the EU’s external action toolbox is diverse and complex. Several instruments are used in Ethiopia, which are all interconnected and aimed to address similar needs in different ways. Therefore, this section will again be divided into the same two sub-sections as in part one. First, the development cooperation tools, hence, the financial assistance granted to Ethiopia will be assessed. A specific focus will be put on the European Development Fund, which is allocating the prime amount of financial assistance to Ethiopia. In addition, a case study will illustrate how the European Union implements programmes under the EDF in practice. In the second part, the main focus will be put on the foreign policy tools used in Ethiopia. These tools always stand in close connection to the events in the partner country. Therefore, the two most controversial and discussed events regarding good governance and civil society in Ethiopia will serve as a basis to assess the European Union’s reaction and engagement in these areas, namely the elections in 2005 and 2010, the latter standing in close relation to the law changes in 2008-09 which were already discussed in the previous chapters.

2.3.1. Development Cooperation Instruments – financial instruments

The vast amount of the European Union’s financial assistance to Ethiopia is allocated through the geographic budget line European Development Fund, which is regulated under the Cotonou Agreement. In fact, Ethiopia is one of the main beneficiaries of this fund. In the period of 2009 to 2013 it received EUR 644 million\(^{259}\) out of EUR 23.966 million reserved for ACP countries\(^ {260}\); from the 11\(^{th}\) EDF which runs between 2014 and 2020 EUR 745.2 million\(^{261}\) is foreseen to be allocated to Ethiopia, with a total amount of EUR 31.589 million\(^{262}\) reserved for ACP countries.\(^ {263}\)

While the recipients of the financial assistance vary due to the instrument chosen, all of the EDF resources are managed, planed and authorized by the National Authorizing Office (NAO) jointly with


\(^{263}\) An additional EUR 321 million were allocated to overseas countries and territories.
the European Union. As set forth in the Cotonou Agreement, every ACP state is required to appoint a NAO in order to coordinate the EDF funds. This should help to ensure the full ownership and the principles of the Paris Declaration on aid effectiveness. In Ethiopia it is the Minister of Finance and Economic Development who was appointed as NAO, now being in charge of the overall control of the EDF funds. In addition, the EDF is “aligned to the broad objectives” of Ethiopia’s Growth and Transformation Plan and hence seeks to ensure local ownership of the resources and their utilisation.

The cooperation in the period of 2014 – 2020, as pointed out in the multi-annual financial framework of cooperation between Ethiopia and the European Union, is built on three focal sectors and two cross cutting issues, as indicated in Table 3. Civil society and synergetic governance constitute a cross-cutting issue in this context. Although the European Union tried to integrate governance as one of the main focal areas, it was not possible due to resistance from the Ethiopian Government. Nevertheless, the EU managed to include governance in two ways: Firstly, by integrating issues related to governance in the three focal sectors, by involving stakeholder and civil society in the process of decision making. And secondly by including ‘synergetic governance” as a cross-cutting issue, with a specific dedicated envelop put aside. The term ‘synergetic governance’ was chosen as a compromise between the Government of Ethiopia and the European Union, and implies that a specific dedicated envelop is to be set aside in order to address issues of governance that are valid for any of the three areas and even beyond.

Table 3: Indicative Aid Allocation to Ethiopia under the 11th EDF

| Focal Sector 1: Sustainable Agriculture and Food Security | EUR 252.4 million | 33.9% |
| Focal Sector 2: Health | EUR 200.0 million | 26.8% |
| Focal Sector 3: Roads and Transition to Energy | EUR 230.0 million | 30.9% |
| Cross-cutting: Civil Society and Synergetic Governance | EUR 52.0 million | 7.0% |
| Cross-cutting: Support Measures | EUR 10.6 million | 1.4% |
| Total | EUR 745.0 million | 100% |

The European Union focuses its promotion on governance in Ethiopia on “a five-prolonged approach” including:

1) As pointed out before – the inclusion of governance within the three focal sectors as well as

266 Interview, Thomas Huyghebaert, First Secretary, Head of Governance, Economic and Social Section, Delegation of the European Union to Ethiopia, Addis Ababa 28.8.2014.
2) The support for **governance issues that transcend the focal sectors**, but nevertheless affect the impact and stability of the 11th EDF;

3) A Civil Society Fund should strengthen the role of CSOs in the development and democratisation process;

4) The key actors and institutions of governance should be strengthened, in order to foster accountability; and

5) The reintegration of returnees should be supported.\textsuperscript{269}

As can be observed in this five-prolonged approach, the European Development Fund does not only accrue one beneficiary in Ethiopia. It is once more divided into several separate funds, dedicated to various projects and recipients, as indicated in Table 4. These beneficiaries include the Government of Ethiopia through the Protecting Basic Services Programme (PBS), Sector Budget Support (SBD) or programmes and projects which the EU funds jointly with other donors such as the DAG. Additionally, Civil Society Organisations might receive financial assistance under the above mentioned programmes. The Civil Society Fund (CSF) is a stock specifically reserved for Civil Society Organisations. In the following, it will be discussed how and to what extend these programmes support good governance and CSOs in Ethiopia.

**Table 4: EU Financial Instruments in Ethiopia and their Beneficiaries**

The Protecting Basic Services Programme replaced to some extent the General Budget Support (GBS) provided to Ethiopia, after the latter was cut jointly by various donors after the elections in 2005. It constitutes a multi-donor program led by the Government of Ethiopia aimed to expand the access to and the improvement of the quality of basic services in Ethiopia. Currently the PBS is in its third phase, with a closing date scheduled in early January 2018.

The PBS is designed as an integrated package and consists of four main components. First, direct support is provided to sub-national groups (woredas), in order to protect basic service delivery. Secondly, financial support is given for basic health delivery. Thirdly, the financial transparency and accountability are strengthened in order to integrate the larger population into the process. And lastly, an Ethiopian Social Accountability Programme aims to enhance the capacity of citizens and civil society organisation to engage in the process of the PBS. The main objective of this last component is to provide ordinary citizens with information in order to empower them to raise their demands and needs and hold policy makers and service providers accountable. This fourth piece intends to facilitate the dialogue between the population and the government, through mechanisms such as budget information and audits, dialogue and monitoring tools such as citizen’s report cards. As such, this component was seen as the “parcel of good governance and democracy” of the project.

The European Union participates in the PBS since 2007. Under the 10th EDF EUR 168 million were allocated to support the PBS, constituting a big amount of the overall EUR 644 million assigned to Ethiopia. One of the aims of the EU within this programme is to support governance issues, by providing financial aid to civil society under the Ethiopian Social Accountability Programme.

In addition, sector budget support is provided in the three focal sectors as indicated in Table 3, likewise integrating issues of governance. An extensive assessment of the inclusion of governance matters in the divers projects funded under the PBS and SBD would exceed the limit of this research. Therefore, these programmes will not be dealt with in detail within this paper. But once again, it should be kept in mind, that governance represents a cross-cutting issue in all of these areas.

In regard to programmes conducted jointly with other donors, the Democratic Institutions Programme (DIP) is of specific relevance in the context of good governance. The DIP is a multi-donor programme financed through the DAG pool fund and was conducted during five years, between 2007

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270 Catherine Dom and Anthea Gordon (2011).
271 Interview, Thomas Huyghebaert (2014).
274 Delegation of the European Union to Ethiopia.
and 2011. It aimed at supporting the efforts of the GoE to increase the participation of the population and at the same time increasing the accountability, responsiveness and effectiveness of public institutions, as set out in the Plan for Accelerated and Sustained Development to End Poverty (PASDEP).\textsuperscript{275} To this end, the programme supported six democratic institutions in Ethiopia in order to develop “a more capable, responsive, accountable and enabling state.”\textsuperscript{276} The main objectives were to promote good governance and human rights, enable the democratic institutions to work more effective, sufficient and responsive and to empower citizens to be part of the democratic process and respect the rights of others.\textsuperscript{277}

Six democratic institutions were chosen to be supported underneath the DIP, while donors could allocate their money to one specific organisation. These democratic institutions are the Ethiopian Human Rights Commission (EHRC), the Ethiopian Institute of the Ombudsman (EIO), the Federal Ethics and Anti-Corruption Commission (FEACC), the House of the Federation (HoF) and Regional Council of Nationalities, the House of People’s Representatives (HoPR) and Regional State Councils as well as the National Electoral Board of Ethiopia (NEBE).

The European Union supported the DIP with a budget of EUR 3 million\textsuperscript{278} jointly together with other DAG donors, including several EU member states.\textsuperscript{279} The consultation for the follow-up programme of the DIP - the Strengthening Democratic Governance programme - is currently on-going. While the GoE initially did not allow the EU to participate in this follow-up programme, as it feared a hidden agenda related to the elections in 2015, it lastly agreed that the European Union could join the group of donors supporting this project after pressure from other EU MS, such as Norway and Austria. Therefore, the European Union will also be part of the Strengthening Democratic Governance programme, which is currently being finalized between UNDP, the GoE and other Donors.\textsuperscript{280}

In addition, the DAG, under the lead of the British Department for International Development (DFID), established the Tracking Trends in Ethiopia’s Civil Society (TECS) initiative. This donor project aims at collecting data related to civil society organisations, as the impact of the Charities and Societies proclamation on CSOs in Ethiopia amongst other, in order to use it as a basis for their engagement in Ethiopia and their dialogue with the GoE.\textsuperscript{281} Other than the DIP, the TECS is not funded by the DAG

\textsuperscript{275} The PASDEP is the predecessor programme of the GTP of Government of Ethiopia in force from 2006 – 2010.  
\textsuperscript{276} Government of Ethiopia and UNDP, Multi-Donor Support for the Democratic Institutions Programme, 2007, 3.  
\textsuperscript{277} United Nations Development Programme, Democratic Institutions Programme: Terms of Reference for the DIP MID-Term Evaluation, 2010.  
\textsuperscript{278} Delegation of the European Union to Ethiopia.  
\textsuperscript{279} The Netherlands, Denmark, Irish Aid, Austria, Italy and Norway also financially supported the DIP.  
\textsuperscript{280} Interview, Heinz Habertheuer, Austrian Development Agency, Addis Ababa, 22.9.2014.  
\textsuperscript{281} Interview with Chrysantus Ayangafac (2014).
pool fund, but by a separate fund managed by DFID. Currently DFID, the Netherlands and Irish Aid are supporting the project.\textsuperscript{282}

The European Union also supported the \textbf{Public Sector Capacity-Building Programme (PSCAP)}, a project conducted between 2004 and 2012 by the World Bank in Ethiopia. The project’s aim was to improve the public service delivery, and at the same time to empower citizens to take part in the development process and herewith strengthen good governance and accountability in Ethiopia. The EU funded this project, to enhance good governance “by improving the scale, delivery and responsiveness of public service delivery”\textsuperscript{283} and empower Ethiopian citizens to participate effectively.

And lastly there is the \textbf{Civil Society Fund (CSF)} a joint initiative of the European Union and the Government of Ethiopia, with the goal of supporting democratization and good governance.\textsuperscript{284} More specifically, the fund aims to support and increase the role of Civil Society Organisation in the overall development and democratisation process in Ethiopia. As the money derives from the EDF, it is jointly managed by the GoE and the European Union and, hence, considered to be a ‘local fund’ by the Government of Ethiopia. Consequently, the European Union is able to support Ethiopian Charities and Societies working in the fields of good governance, advocacy and human rights, that could usually only receive 10 percent of their funding from foreign sources, as stated in the Charities and Societies Proclamation. Thus, the CSF enables the European Union to continue to work closely with civil society on governance issues and support their capacity to engage with the GoE in the development process, however, obviously only with prior acceptance by the GoE.\textsuperscript{285}

The CSF I was conducted between 2006 and 2012 with a total budget of EUR 10 million. Through this fund 56 grant projects in areas of governance and capacity building were supported.\textsuperscript{286} A total list of the grants awarded, naming the receiving organisations as well as the project names, is available at the CSF webpage.\textsuperscript{287} The current CSF II started in October 2012 and will run until 2016, with a total aid allocation of EUR 12 million.\textsuperscript{288} As stated by the European Union Delegation to Ethiopia, the CSF II focuses on key governance areas such as programmes dealing with “[the fight against] gender based

\textsuperscript{283} \textit{European Commission}, Commission Decision on a Measure in Favour of the Federal Democratic Republic of Ethiopia to be Financed from the 10th European Development Fund, 2011, 1; hereinafter cited as: \textit{European Commission (2011c)}.
\textsuperscript{284} \textit{Delegation of the European Union to Ethiopia}.
\textsuperscript{285} Interview, Thomas Huyghebaert (2014).
\textsuperscript{286} \textit{Delegation of the European Union to Ethiopia}, EU-Ethiopia Civil Society Fund I (CSF), 2013.
\textsuperscript{287} The grant list is available under: http://csf2.org/sites/default/files/CSF\%20I\%20Grants.pdf (last accessed 19.2.2015).
\textsuperscript{288} \textit{Delegation of the European Union to Ethiopia}, 20.
violence, [the] promotion of the rule of law, human rights education and [the] strengthening [of] community structures for peace building.”

In addition to the projects and programmes which run under EDF, a Governance Incentive Tranche was established in 2006. As indicated in the previous chapter dealing with the GIT, a state needs to draw a Governance Action Plan in order to be eligible to the additional tranches. In the case of Ethiopia, this action plan was based on the PASDEP, which also encompassed “a matrix with benchmarks for political and technocratic governance.” This matrix was, however, criticised for being rather vague and to not include important issues, such as “the independence of the electoral board, lessons learned from the 2005 elections, modalities for political party financing and the role of civil society.” Furthermore, it was argued, that the instrument “hardly contributed to strengthening political dialogue” between the European Union and Ethiopia. Although the size of the Incentive Tranches was not published, Ethiopia is said to have been granted a middle-size tranche, which was “perceived as to be quite large given the difficulties in drafting the plan.”

Besides the EDF, the European Instrument for Democracy and Human Rights is of particular relevance in the context of the EU’s promotion of good governance and its support for civil society organisations in Ethiopia. Grants are mainly distributed through calls of proposals, either issued by the European Commission - global calls for proposal - or by the Delegation of the European Union to Ethiopia. The global call for proposal provides funds to projects that cover the objectives of the EIDHR as shown in the first part. For the country specific calls for proposal each EU delegation draws a Country-Based Support Scheme (CBSS), determining objectives for support. According to the CBSS of Ethiopia for projects between 2012 and 2013, the projects implemented in Ethiopia mainly focused on two actions: the empowerment and support of women and the support for other vulnerable groups, as children, persons with disabilities and the elderly.

Different from the Civil Society Fund, the EIDHR does not require prior agreement nor notice of the government of Ethiopia, hence, it is not considered a ‘local fund’. This limits the possible funding opportunities of the instrument due to the strict charities and societies law. Sponsored programmes

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291 Ibid.
293 Del Biondo and Orbie (2013), 420; see also Hackenesch (2011).
include projects that focused on partial regimes – like election observation missions which will be dealt with in the following chapter, - horizontal accountability – as work with parliamentarians, - and civil and political rights.295

2.3.1.1. Case Study: Ethiopian Women Lawyers Association (EWLA)

The Ethiopian Women Lawyers Association (EWLA) is a non-governmental organisation working for the realisation of women’s rights in Ethiopia since its creation in 1995. As such, the EWLA’s mission is to promote and ensure the protection of civil and political as well as the social, economic and cultural rights of women. The EWLA is primarily engaged in three interconnected areas: legal research and advocacy, the advancement and promotion of women’s rights through public education and capacity building, and lastly, free legal aid service.296

Usually, the advocacy activities of the EWLA are based on the research which is undertaken by the organisation. In previous times, the EWLA has conducted series of legal research on women’s rights in Ethiopia, amongst others funded by the European Union. Through the findings of these research activities, the EWLA is able to engage with the GoE to jointly improve the legal position of women in Ethiopia. Results for these dialogues are for instance amendments in the family law as well as the revised criminal law.297

In addition, the EWLA has been undertaking several activities in the field of the promotion of women’s rights in Ethiopia. These promotion activities include educational programmes in schools, health institutions, or weekly radio programmes in order to target the general public, on the one hand. On the other hand, the EWLA conducts capacity building programmes in collaboration with different governmental institutions and law enforcing officials.298

And lastly, the EWLA provides free legal aid service, especially to women without financial means. Additionally to the head office in Addis Ababa, free legal aid services are provided in six branch offices in regional states. Furthermore, the EWLA has close to fifty voluntary committees in rural areas in which volunteers, trained by EWLA, provide basic information to women and girls in need.299

Before the amendments of the Charities and Societies Proclamation, the Ethiopian Women Lawyers Association was able to provide more services than today, as they received funding from many

296 Interview, Zenaye Tadesse (2014).
297 Ibid.
298 Ibid.
299 Ibid.
sources, such as UNICEF, UN Women and several Embassies.\textsuperscript{300} However, due to the changes in law and the resulting financial constraints, activities have declined. As a civil society organisation working in the areas of advocacy, human rights and governance, the Ethiopian Women Lawyers Association is classified as an Ethiopian Society. Therefore, due to the Charites and Societies Proclamation, the EWLA is prohibited to receive more than 10 percent of its funding from foreign sources.

In 2010, one year after the Charities and Societies Proclamation was issued, the funds of the Ethiopian Women Lawyers Association were frozen, since it allegedly received funds from foreign sources.\textsuperscript{301} In the following, the Ethiopian government confiscated BIRR 3 million (about EUR 133.393) from the EWLA. Due to the significant financial problems, the EWLA was forced to discharge about 70 percent of its staff and discontinue several of their activities.\textsuperscript{302} This evolvement was also commented by the Economic and Social Council during its Concluding Observations to Ethiopia in 2012, in which it noted with concern “that the Charities and Societies Agency has frozen assets of some [CSOs], including the Ethiopian Women Lawyers Association, forcing them to downsize, close regional offices and suspend some of their services.”\textsuperscript{303}

As explained above, despite the Charities and Societies Proclamation, the European Union has the capacity to provide financial assistance to Ethiopian Charities and Societies that work in the field of advocacy, human rights and governance through the Civil Society Fund. The Ethiopian Woman Lawyers Association was one of the CSOs that received funding from the European Union under the CSF I and II.

In the period between 2007 and 2009, the EWLA received a large grant under the CSF I, in order to implement a project on capacity building for research and action against domestic violence.\textsuperscript{304} The project, which was implemented in collaboration with Oxfam GB, focused on prevention, response and support of victims of domestic violence in Ethiopia and included a nationwide research project, capacity building trainings as well as free legal aid for women and girls.\textsuperscript{305}

Furthermore, the EWLA is currently being funded under the CSF II with an amount of BIRR 5 million (about EUR 222.363). The project, which started in April 2014 and runs for 18 months, focuses on gender equality and mitigation of gender based violence in Addis Ababa, but also with a specific focus on three regional states: Oromia, Amhara, and Gambella. Like the project implemented under

\textsuperscript{300} Interview, Zenaye Tadesse (2014).
\textsuperscript{303} Committee on Economic, Social and Cultural Rights (2012), 2, para 7.
\textsuperscript{304} European Union, CSF I Grants List.
the CSF I, the project which is currently carried out is also involving all core-programmes of the EWLA.

In the starting phase of the project, a survey was conducted in the focus areas in order to receive information of the knowledge of, and attitudes towards gender based violence of the communities in the regions. In fact, this survey was the first survey within three years that the EWLA was able to carry out due to financial constraints. Based on the information collected within the scope of this research, the EWLA will provide adequate capacity building trainings, especially to law enforcement organs, such as police, judges and prosecutors, but also to their voluntary committees in the areas of Oromia, Amhara and Gambella.

In addition to capacity building, another focus of the project will be to raise awareness of gender based violence, the prevention mechanisms as well as the response mechanisms amongst women, but also the entire communities in the focus areas. Furthermore, a self-route presentation skill programme should provide women with the essential skills to present their cases in court themselves.

2.3.2. Foreign Policy Instruments

As pointed out in the introduction of this chapter, the implementation of the foreign policy instruments is to be seen in the context of the overall situation in Ethiopia. After a general introduction to the EU’s representation within Ethiopia and the framework of political dialogues held, the additional foreign policy instruments will be explained in connection to controversial political situations in Ethiopia. As can be observed in previous studies, political conditionality and sanctions are most likely to be adopted in reaction to flawed elections or high-intensity coercion, such as crackdown of manifestations. Therefore two events will serve as a basis for the assessment of the actions set by the European Union in order to promote good governance in Ethiopia: First, the 2005 elections and secondly the EU’s response to the 2010 elections which are to be seen in connection to the legal situation in 2008-09.

Besides the large financial assistance, the European Union also holds a strong presence in Ethiopia. In addition to the European Delegation to Ethiopia, which includes a human rights focal point, three EU Special Representatives work in Ethiopia: The EUSR for the Horn of Africa, Alexander Rondos, was appointed in January 2012. His role as EUSR is seen as important in this region, as he gives a face to the European Union’s actions and projects. While he is not mandated with the management of the

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finances and interventions in the Horn, he still possesses an important role in coordination and federation of the various strands of the EU’s engagement in the region. The second EUSR covers the southern Mediterranean region, with a special focus on the establishment of close cooperation with relevant international and regional organisations, including the African Union, amongst others. Not only because Ethiopia is a member of the African Union, but also due to the fact that the African Union has its seat in Addis Ababa, the EUSR for the southern Mediterranean region regularly visits Ethiopia. And lastly, the EU thematic Special Representative for Human Rights, Stravos Lambrinidis, is also engaged with good governance and CSO matters in Ethiopia. 307

The European representations are accompanied by dialogues held between representatives of the European Union and Ethiopia. Regular political dialogues take place under the framework of the Article 8 Dialogue, as established under the Cotonou Agreement. A meeting for the regular policy dialogue between the EU Heads of Missions and the government of Ethiopia takes places every 6 months. 308 Additionally, several high level meetings take place throughout the year with participants from the relevant state ministries. In these discussions issues such as freedom of speech, assembly and the press, specifically the role of civil society and the anti-terrorism law are addressed. 309

Despite the fact that human rights are high on the agenda on these dialogues, a study for the European Commission conducted in 2011 found that “the nature and the structure of the dialogue does not allow achieving much.” 310 According to the study, the government of Ethiopia has a rather formal way of approaching dialogue with the European Union and tends to reduce the space for discussion on human rights as well as wider governance matters. 311 Also three years after this study, the possibility of positive impact of dialogues on human rights and governance issues is seen rather unenthusiastically. 312

Although the European Union currently enjoys very good political as well as economic relations with Ethiopia, relations have been different. Especially at two occasions – the Ethiopian general elections in 2005 and 2010 - the European Union significantly criticised Ethiopia for its internal affairs, which was in both cases not well received by Ethiopia. These instances, as well as the EU’s response will be assessed below.

311 Directorate-General for external policies (2014b), 17 – 19.
312 Interview, Thomas Huyghebaert, (2014).
2.3.2.1. The 2005 Elections

The Ethiopian elections in May 2005 to the House of Peoples’ Representatives and the Regional Councils were monitored by a European Election Observation Mission, headed by Anna Gomes, member of the European Parliament as Chief Observer. Although the report mentioned positive events, the overall report has been described as “without doubt the most critical of all international observer missions.”

The EOM concluded in its report that “the elections fell short of international principles for genuine democratic elections.” In particular, the European Union commented negatively on the human rights situation in the post-election day period.

Following an invitation by the Government of Ethiopia, the European Union sent an EOM consisting of a long-term observation mission and a short-term observation mission which were present in Ethiopia from 18 March until 5 September 2005. On the election day itself, more than 200 European observers were working in Ethiopia.

The pre-elections period was commented positively by the European Union, in particular the EOM emphasised the increase in freedom for political campaigning and the “unprecedented opening” of the state owned media to pluralistic reporting. However, some concerns were expressed regarding alleged harassment of opposition party members and the prohibition of local election observer groups from monitoring the elections by the NEBE. Concerns started to increase in the counting and aggregation process, after the election day. The EOM noted irregularities and a lack of transparency, which was specifically caused by a lack of training of election officials.

But the EOM was especially concerned about the post-election period. On the night of election day, former Prime Minister Meles Zenawi issued an emergency law, in which he declared a month ban of any demonstrations and protests in Addis Ababa, starting the following day. At the same time, freedom of press and media declined. Various journalists linked to opposition parties were arrested and the remaining reports exclusively focused on statements of the positions of the EPRDF. The restriction of freedom of the media was an issue of strong concern raised by the EU EOM Chief Observer. Moreover, the EU EOM issued a statement expressing its concern regarding the “selective coverage of international observers’ statements by the state media.”

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316 European Union Election Observation Mission (2005), 16.
Shortly after, demonstrations of students and opposition party members against the emergency law and due to suspected fraud in the election took place, leading to clashes with security forces in June and November 2005. Over 200 people were killed, and thousands arrested. The EU EOM condemned these acts of violence in a statement, and urged to release all persons arrested and not charged. On the contrary, the former Prime Minister of Ethiopia claimed that response to the protests did not relate to the election process anymore, thus, rejected an evolvement of the European Union.

Following the demonstrations “a wave of arrests” was conducted by the government, including people connected to the demonstrations, opposition representatives and human rights activists. Moreover the EPRDF, still obtaining the majority in the House of Peoples’ Representatives, revised the ‘Provisions of Parliament Procedure’ limiting the role of opposition in the house.

The European Union did not further condemn the following incidents in Ethiopia, nor did it issue any further statements except the two mentioned above. However, the general budget support the European Union provided to Ethiopia came under pressure. Particularly the European Parliament expressed its concern condemning the violence within Ethiopia in two resolutions in July and September 2005. This pressure finally led to a response by the European Union in December 2005, when it suspended, together with the DAG members and the World Bank, direct budget support to Ethiopia. This suspension was, however, done without the formally opening of consultations according to Article 96 of the Cotonou Agreement and, hence, without the enforcement of a human rights clause. The donors agreed to cut down general budget support, but increased alternative instruments, focusing on governance programmes. They further agreed, that if governance issues would not improve, aid should be reduced over time.

Thus, direct budget support was suspended in December 2005. Furthermore a financing proposal for roads, amounting to EUR 155 million, was removed from the agenda. While officially the European Union grounded its decision on political instability, political governance grounds were also found to be important factors. The Minister of Finance of Ethiopia expressed his strong discomfort over these decisions, calling them unacceptable and pointing out the obligations and commitments the EU had made towards Ethiopia.

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320 Del Biondo (2015b).
321 Prime Minister Meles, letter to the Ethiopian Herald, 31 August 2005.
323 Del Biondo and Orbie (2013).
324 Del Biondo (2015b).
326 Del Biondo and Orbie (2013).
327 Agence France-Presse, Ethiopia says EU Aid Freeze ‘unacceptable’, December 2005.
Without further statements or actions and despite a lack of changes in the political sphere, the European Union unfroze the aid allocated to roads one year later, and joined the Protection of Basic Services Programme, which was formed in order to replace general budget support, with about EUR 255 million in December 2007.328

2.3.2.2. The 2010 Elections

The fourth elections to the Ethiopian House of People’s Representatives and the Regional State Councils took place on 23 May 2010. It ended in an overwhelming victory of the ruling party, which gained together with its allied parties 544 out of 547 seats in the HPR and all but four out of 1,904 seats for the Regional State Councils.329 Although the Election Observation Mission concluded that the elections were held in a “generally peaceful environment”330, if found that the electoral process “fell short of international commitments for elections.”331 It particularly criticised the lack of transparency and political space for contesting parties. According to the final report of the EOM, the obstacles faced in the 2010 elections, have to be seen in conjunction with changes in the legal framework before the elections. These laws, such as the Mass Media Proclamation, the Charities and Societies and the Antiterrorism Proclamation, led to restrictions of freedom of expression and assembly, and limited the space for the opposition, especially in rural areas, where the majority of the Ethiopian population lives.

Also in this election, the European Union sent an EOM to Ethiopia which was present in the country between 14 April and 21 June 2010. It consisted of 90 long-term and 60 short-term observers, headed by Mr. Thijs Berman, also a member of the European Parliament.332 In total, the EOM was funded with about EUR 8 million from the EIDHR budget.333

The campaigning in the pre-election period was very quiet and almost inexistent, except for the last week before the election was held. The EOM report identified that various parameters which contributed to the silent pre-election period. Firstly, it noted that the memories of the 2005 elections were still present and “certainly acted as a powerful disincentive for political activism among the population.”334 Also, the quite large number of allegations of political intimidations, including violence and harassment, and the lack of financial resources of most political parties are seen as the reason for the restraint in campaigning in the pre-election period. Moreover, the EOM saw a

328 Del Biondo, Jan Orbie (2014).
potential limitation of freedom of speech and campaign by several public declarations issued by former Prime Minister Zenawi, including warnings that legal actions were going to be taken against anyone who would violate the Electoral Code of Conduct for Political Parties.335

Within its report, the EOM also criticised several laws which it believed had a negative impact on the election environment. In particular, the EOM found that the Anti-Terrorism Law which was issued in 2009 had negative influence on freedom of the press, although it was not enforced during the campaign in the 2010 elections. The EOM also was of the view that the diminished media environment was a result of the aftermath of the 2005 elections, in which many journalists got imprisoned and left the country after they have been released.

In addition, the EOM raised concerns regarding the Ethiopian Charities and Societies Proclamation. It considered “that the conditions the law imposes are contrary to the freedom of association and detrimental to the work of local civil society organisations in the fields of democracy and human rights.”336 Although civil society still played an important role in the electoral process through the organisation of public forums, the implementation of voter education trainings and the deploying of domestic observers, the space for civil society shrunk to a minimum in the 2010 Elections.337 Particularly, the EOM commented negatively on the decision of the NEBE to complete all the voter education trainings itself, and prohibited any local NGO from engaging in this field. According to the report of the EOM, “this is unfortunate given the positive influence that civil society organisations can play in the long run.”338

The EMO concluded, that the results were highly influenced, not only by the restrictive laws, but also the fragmentation of the main opposition parties and the departure of important opposition figures in the aftermath of the 2005 elections. It further stated that due to the outcome of the elections the presence of the opposition in the HPR as well as in the State Councils will be practically non-existent, thus, that “[T]he influence of dissenting views in the country’s political debate will therefore be excluded from the parliament until 2015.”339

The report of the EMO was not welcomed by the Ethiopia Government, in particular the former Prime Minister called the report “useless trash” and further denied the Chief EU Observer access to Ethiopia to prevent a presentation of the report within Ethiopia.340 Despite a declaration issued by the European Union, in which it expressed its “regret that it has not been possible to agree on a

337 Wondwosen (2009).
presentation of the final report by the Chief Observer [...] in line with normal practice for EU Election Observation Missions”\textsuperscript{341}, no further actions were taken by the European Union.

2.3.2.3. Outlook to 2015 Elections

Also the upcoming elections in 2015 are highly debated. In the middle of 2014, the European Union issued two statements, both by some means regarding the forthcoming elections. In the statement from May 2014, the spokesperson of the EEAS reiterated the importance of creating an enabling environment “in which divergent voices from all parts of society express their views freely in a constructive manner.”\textsuperscript{342} Moreover, the European Union pointed out that “it firmly believes that peaceful protests are part of a normal democratic discourse and that excessive force in response should be avoided.”\textsuperscript{343} In the other statement issued in the end of July 2014, the European Union again expressed its concern regarding political space and freedom of expression and association in Ethiopia. In particular the EU expressed its “[deep concern] about developments in the case of the ten bloggers and journalists charged under the Anti-Terrorism Proclamation”\textsuperscript{344} and called on the GoE to ensure that this Proclamation is “not used to curb freedom of expression or association.”\textsuperscript{345}

Although the European Union already sent EOMs to the last two Ethiopian general elections, it is doubtful wheater it will receive another invitation by Ethiopia in the current year. Not only regarding the previous EOM which were not well received by the GoE, but also in the light of the rather critical statements issued by the European Union in 2014, it is doubted by several individuals involved that there will be an Election Observation Mission sent by the European Union to Ethiopia in 2015.\textsuperscript{346}

\textsuperscript{341} European Union, Declaration by the High Representative Catherine Ashton on behalf of the European Union on the Publication of the Final Report of the EU Election Observation Mission to Ethiopia 2010, 2010.
\textsuperscript{342} European External Action Service, Statement by the Spokesperson of the EEAS on the situation in Ethiopia, May 2014; hereinafter cited as European Union External Action Service (2014b).
\textsuperscript{343} Ibid.
\textsuperscript{345} Ibid.
\textsuperscript{346} Interview Thomas Huyghebaert (2014) and Heinz Habertheuer (2014).
3. Conclusion

As shown in this treatise, the European Union’s external action toolbox towards Africa is wide-ranging and diverse, designed to be used in a combined manner to promote and protect human rights and democracy in third countries. Likewise, the external action toolbox can be used to address issues of good governance as well as to strengthen a bottom-up approach through civil society organisations. Whereas several of these tools have their origin and legal basis in international law, such as the actions in multilateral fora, démarches and declarations as well as the possibility to impose restrictive measures, others are based on international agreements between the EU and the respective African state, generally the Cotonou Agreement.

The present research divided the EU’s external action toolbox into two categories to highlight which of the instruments rest in the competence of the EU MS – foreign policy instruments – and which of them are assigned to the EU COM – development cooperation instruments. This division shows that it is mainly the financial budget lines in which the European Union prevails and has the capacity to undertake decisions on its own. On the other hand, the foreign policy instruments range from the representation of the EU in a third country over political dialogues and election support to general instruments of international relations, such as démarches, declarations and restrictive measures or sanctions. Whereas several of the foreign policy instruments have mandates to act independently within their mandate, as the EUSR for HR, the decision whether or not to appoint them rests within the EU Council of Ministers as an issue of the CFSP, thus the EU MS.

Each of the instruments has specific features and qualities designed to enable the European Union to react effectively to a variety of situations. Financial assistance to partner countries under the EDF, as regulated under the Cotonou Agreement, not only allows the European Union to support specific efforts of the ACP-states towards good governance, it also permits the EU to react negatively on several threats to good governance through a human rights clause. Although good governance is only a fundamental element of the Cotonou Agreement, threats to good governance frequently go along with violations of human rights, democratic principles and the rule of law, which constitute essential elements of the Cotonou Agreement, thus, enable the EU to undertake appropriate measures in case of their violation.

The EIDHR and the EED, in contrast, specifically address CSOs and seek to strengthen human rights and democracy through a bottom-up approach. While programmes and projects funded under the EDF base on a framework jointly designed by the EU and the government of the partner country, the EIDHR and the EED enable the European Union to support CSOs without the consent of the government concerned.
Elections are by some means supported separately, even though their budget derives in the case of election assistance from the EDF and in the case of EOM from the EIDHR. Although the latter still requires an invitation from the country to which the EOM shall be sent to, the organisation and planning as well as the spending of resources is determined by the EU independently from an agreement with the third country. EOMs enable the European Union to closely observe the electoral processes in the country, as well as to issue comments and recommendations on incidents in the respective state.

Additionally to the financial support, the European Union seeks to complete its external action toolbox and influence on good governance through presence in the partner countries as well as through regular dialogues, as determined by the Cotonou Agreement. While the EU Delegations and the newly established human rights focal points contribute through information gathering and sharing to the promotion of good governance in third countries, the European Union Special Representatives enable the Union to act in a more coherent and effective manner in its external relations towards African states.

How this variety of external action tools is implemented in practice, is shown in the second part of this research paper, in which the European Union’s engagement to promote good governance and civil society in Ethiopia is discussed. Although, Ethiopia can accredit impressive development progress in regard to the Millennium Development Goals, the country still faces major challenges regarding good governance. Many of these challenges are to be seen in the context of the history of Ethiopia, which was ruled by a military regime until 1991. Current concerns specifically regard the still prevailing dominance of the ruling party and its distrust in any opposition party and most civil society organisations in the country, in addition to allegations of corruption.

The EU seeks to operate in Ethiopia in numerous ways, using its development cooperation along with its foreign policy instruments in synergy. Article 8 Dialogues are held regularly, in which issues such as human rights, democracy and the rule of law as well as good governance and the role of civil society are regularly discussed. The representation of three EU Special Representatives in the region, as well as the Delegation of the European Union to Ethiopia also contributes to strengthen the EU’s presence and its aims in the country.

Additionally, the European Union uses two of its financial instruments in Ethiopia, namely the European Development Fund and the European Instrument for Democracy and Human Rights, allocating a large piece of its overall development cooperation budget to the country in the Horn of Africa. Through these instruments the EU does not only seeks to support the development process of

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347 Interview, Thomas Huyghebaert (2014).
Ethiopia, but also puts a specific focus on good governance issues and the empowerment of civil society organisations.

The vast majority of the financial support allocated by the European Union to Ethiopia runs through the European Development Fund. To manage these resources the Government of Ethiopia and the EU jointly elaborated a financial framework, naming focal sectors for their future partnership between 2014 and 2020. Although governance only constitutes a ‘cross-cutting’ issue within this financial framework and is not as a focal sector as such, the EU managed to include issues of good governance in a variety of ways. The EU seeks to include governance in every project implemented in Ethiopia. Therefore, the European Union puts a strong emphasis on the inclusion of civil society in the planning as well as the implementation stage, specifically in its sector budget support. In particular, the EU’s efforts to support good governance in Ethiopia are reflected in its engagement in the ‘governance parcel’ of the Protecting Basic Services Programme, its support for the Democratic Institutions Programme and its former engagement in the Public Sector Capacity-Building Programme.

But the Union does not only support specific programmes to promote good governance through strengthening the capacity of institutions belonging to the Government of Ethiopia to be more accountable, responsive and effective, but also seeks to empower civil society organisations through the Civil Society Fund as well as the EIDHR which, however, entails several difficulties. While the government has a genuine interest in moving towards democratic principles and establishing good governance, cooperation with opposition groups and civil society organisations still remains vague. Specifically, there is a prevailing mistrust in CSOs by the ruling party, which is accusing them to work for either foreign states or the opposition. This fact is also reflected in legislation in Ethiopia, which prohibits CSOs from working in the field of human rights, advocacy and good governance if they receive more than ten percent of their funding from foreign sources.

These facts make it challenging for the European Union to directly and effectively support civil society organisations in Ethiopia. Although a specific envelope of the EDF is put aside to specifically accrue CSOs, the Civil Society Fund, the Government of Ethiopia decides jointly with the Union which organisations will benefit from this fund. Only through the EIDHR the European Union does have the possibility to allocate financial resources to NSA, without consent of the GoE.

The case study dealing with the Ethiopian Women Lawyer Association included in the second part of the research paper illustrates how the changes in Ethiopian law affected CSOs working in the field of human rights, advocacy and governance. It shows, that although the European Union is able to

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348 Interview, Chrysantus Ayangafac (2014).
provide funding to the EWLA despite the Charities and Societies Proclamation, the financial resources depend on projects and grants allocated by the European Union and need to be approved by the Government of Ethiopia. This fact indeed prevents the EWLA to act independently from the GoE, knowing that without their consent, no future EU grant will be given to their organisation.

In addition, two Election Observation Missions were conducted in Ethiopia. Both EOM reports, however, were criticising the evolvements during the elections as well as events beyond these and were thus not well received by the Government of Ethiopia. In particular, the EOM report of 2010 criticised law changes in Ethiopia, which it saw in connection with the outcome of the election, such as the Mass Media Proclamation, the Charities and Societies Proclamation and the Antiterrorism Proclamation. The report of 2010 commented negatively on the impact these laws had on the presence of civil society organisations, and the lack of influence these organisations obtained in the pre-election period of the elections in 2010. In the end, the election report of 2010 was not permitted to be presented in Addis Ababa, as agreed on beforehand by the Government of Ethiopia and the European Union.

Also the elections in 2005, in particular incidents in the post-election period, were criticised by the EU. As a reaction to the extensive use of force by the police during protest in Addis Ababa in the post-election period, the European Union issued two public statements condemning these violations of human rights. Although, the European Union refrained from opening up an Article 96 consultation and did not impose either a human rights clause on nor implemented restrictive measures in Ethiopia, the Elections in 2005 ended in the suspension of general budget support and the freezing of funds for a roads project. While, the European Union unfroze the funds only one year after, and joined the PBS as a replacement for the general budget support two years later, these events clearly show an intention of the European Union to promote good governance and civil society in Ethiopia through negative conditionality.

Indeed, the European Union has a large agenda to support good governance and civil society organisations in Ethiopia, using a whole array of development cooperation and foreign policy instruments from its external action toolbox in a combined manner. Undeniably, questions of effectiveness, sustainability and political reasoning need to be further addressed. Reasons why the European Union did not apply the human rights clause in the aftermath of the election in 2005, as well as the question why there was no clear reaction to the outcome of the elections in 2010 are highly debated in literature.\footnote{See for example Del Biondo (2011) and Del Biondo (2015b).}
Nevertheless, the most important factor for the development of good governance is a committed government and a vibrant civil society reflecting the society’s needs and interests in the country concerned. In fact, the European Union’s external action toolbox does provide the capacity to persuade states to move towards good governance and to empower civil society organisations. However, it has to be kept in mind that there is no universally accepted definition of good governance, also due to the fact there are several ways to achieve good governance. Thus, the challenge faced by the European Union is to effectively use its external action toolbox to support the government concerned on its own path to become an accountable state that upholds human rights and is led by the rule of law.
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**Interviews:**


