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# The EU's Democracy Promotion in Ukraine and the Importance of Domestic Legitimacy

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## List of Abbreviation

AA	Association Agreement
CCC	Counterpart Creative Center
CEEC	Central and Eastern European Countries
CPI	Corruption Perceptions Index
CSO	civil society organization
CSR	Ukrainian Centre for Society Research
DIF	Democratic Initiative Foundation
EaP	Eastern Partnership
e.g.	exempli gratia
EIDHR	European Instrument for Democracy and Human Rights
EII	European Integration Index for Eastern Partnership Countries
ENP	European Neighborhood Policy
etc.	et cetera
EU	European Union
KIIS	Kiev International Institute of Sociology
NGO	non-governmental organization
NIT	Nations in Transit
NSA&LA	Non-State Actors and Local Authorities in Development
OSCE	Organization for Security and Co-operation in Europe
U.S.	United States
USAID	United States Agency for International Development

## 1. Introduction

In winter 2013/ 14 Ukraine has witnessed a massive societal upheaval on the Maidan Niezalezhnost (Independence Square) in Kyiv that was presented by the media as “an outburst of the democratic and pro-Western aspirations of the entire Ukrainian society, and as protest against a deeply corrupt and despised regime” (Bachmann/ Lyubashenko, 2014, p. 443). The so called “Euromaidan” (Lyubashenko, 2014, p. 61) overthrew the current regime and a European-friendly government rules since 2014. The protests started when President Viktor Yanukovich denied signing an Association Agreement (AA) with the European Union (EU) which was being negotiated about for several years. The hope for approximation toward the EU in society, and for the implementation of democratic standards in Ukraine, had a considerable impact on the development of the protests.

The AA is part of the Eastern Partnership (EaP) policy of the EU. In the EaP, the EU is not only co-operating on an economic, security-political, and financial level with its six partner states<sup>1</sup>, but is also trying to encourage the civil society and to increase the degree of democracy. The EU has a leading role in the worldwide promotion and stability of democracy (Ratiu, 2011, p. 2). As a community of shared values, the Union implemented in the Treaty of Lisbon from 2007 that it is “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights [...]” (Art. 1a). Furthermore, “[t]he Union’s aim is to promote peace, its values and the well-being of its peoples” (Art. 2 No. 1). The enlargement processes in 2004, 2007, and 2013 helped to consolidate democracies and empower pro-democracy forces and reforms (Börzel/ Böttger, 2012, p. 163). Its enlargement is called to be “the most successful foreign Policy of the EU” (Schimmelpfennig/ Scholtz, 2007, p. 2). The entrance of former Soviet countries such as Estonia, Latvia, or Lithuania had a significant impact on the positive development of the economic recovery after the breakdown of the Soviet Union, as it brought peace, stability, and democratization (p. 2). The successful integration of the Central and Eastern European Countries (CEEC) proofs that the EU has a big impact on its (eastern) neighboring countries. Democratic progress was a precondition for negotiations with and eventual membership to the EU. This compliance of rules “as a condition for rather than a consequence of membership” (Börzel/ Böttger, 2012, p. 167) has proven to be very effective for the democratic development in these countries. The EaP countries, however, have not been offered a membership perspective and further enlargement will not take place within the next five years as a minimum, as was stated by the President of the European Commission Jean-Claude Juncker (Commission, 2015, p. 3). It is questionable, in how far democracy can also be strengthened in neighboring countries that are not offered the “golden carrot”

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<sup>1</sup> Partner countries are Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova, and Ukraine.

(Börzel/ Böttger, 2012, p. 176) of membership. While some authors (e.g. Schimmelfennig/ Scholtz, 2007; Smolnik, 2008) strongly doubt the same effectiveness of the EaP on countries without a membership perspective because of the lack of strong incentives, others (e.g. Börzel/ van Hüllen, 2014; Börzel/ Böttger, 2012) argue that other external action variables than the size and credibility of incentives can also have a positive effect on the degree of democratization. Polity change induced by the EU can be possible even without a membership perspective, if, besides others, domestic actors and their convictions and capacities are taken into account. Börzel/ van Hüllen name domestic legitimacy of external democracy promotion as one of the main variables for the EU's supported fight against corruption by comparing Georgia with Armenia. In Georgia, societal norms complying with those promoted by the EU have prevailed and therefore the fight against corruption, supported by the EU, has been more effective than in Armenia. There, moral outrage against corruption was not as high. This focus on norms and values, rather than on material or political incentives, offers a new explanation for successful democratization in countries even without a membership perspective.

This work will analyze **in how far domestic legitimacy is influencing the degree of democratization in Ukraine between 2009 and 2014**. This question will be analyzed in order to understand the effectiveness and leverage of the EU's external democracy promotion in Ukraine as an EaP country without a membership perspective. It will be argued that **the higher the domestic legitimacy of the EU's external democracy promotion in the society of a third state is, the higher the degree of democracy will be**<sup>2</sup>. In the following, the main theoretical assumptions for explaining the effectiveness of external democracy promotion will be presented. Further on, the theory of Börzel/ van Hüllen on domestic legitimacy will be explained. After describing how democracy and domestic legitimacy are defined and operationalized in this work, the research design will be presented. A short introduction of the development of the EU's democracy promotion in the EaP will then be given. Following, the degree of democracy, the support of the EU and the role of the civil society will be observed in three different points in time. Finally, it will be explained, to which degree domestic legitimacy of the external actions is positively influencing the degree of democracy in Ukraine. It will furthermore be analyzed, which antecedent conditions are necessary in order for domestic legitimacy to be influential. The results will be summarized in the last chapter.

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<sup>2</sup> The term "third state" refers to the country on which the EU is concentrating its democracy promotion.

## 2. Literature Overview

This thesis will focus on the democracy promotion of the EU in Ukraine. The EU as an international actor in the field of democracy promotion, especially after its enlargement, is not to be negated. The European Council of Ministers defines democracy promotion as “the full range of external relation and development cooperation activities which contribute to the development and consolidation of democracy in third countries” (European Council of Ministers, 2006, p. 3, quoted in Merkel, 2010, p. 439). This broad definition implies all economic, social and developmental strategies and their effects (Merkel, 2010, p. 439). Still, scientific research has not yet fully examined the concepts, strategies, instruments, and impacts of external democratization. A general applicable “theory of external democracy promotion” (Ratiu, 2011, p. 1) has not been created so far.

Such an embracing theory does not seem to be advanced in the near future (Merkel, 2010, p. 437). Too many potential variables are able to influence the effects of external actions, which makes it impossible to construct a reliable, analytical, and all-embracing theory that fits to various cases. Furthermore, external democracy promotion is valued differently, depending on different schools of International Relations such as constructivism and realism.

For analyzing the conditions of a successful external democratization, several independent variables have been said to influence the degree of democracy of a country (dependent variable). The *external incentives model* by Frank Schimmelfennig uses a rationalistic approach in order to explain the degree of a successful democracy promotion. Rationalism emphasizes cost-benefit calculations and uses positive and negative incentives to explain the behavior of states (Schimmelfennig/ Sedelmeier, 2005, p. 6). The possibility to become a member (incentive) of the EU can influence the willingness of the third states to comply with EU rules and norms (such as democratic reforms). The benefit of becoming a member is higher than the costs of implementing EU rules. This rationalist bargaining model “is actor-centered and based on a logic of consequences” which “assumes strategic, instrumentally rational actors who seek to maximize their own power and welfare” (pp. 9, 10). Schimmelfennig names the instrument of conditionality for a successful democracy promotion. Conditionality is used by the EU, by giving third states the condition to adapt EU rules (which in this context implies democratic standards) if they want to receive a reward (for example membership or financial support). If the country does not comply with these conditions, rewards are withheld (pp. 9, 10). The independent variables for the degree of democratization are the size of the incentives, the credibility of the conditionality, the existence of asymmetric interdependencies, the amount of the adaption costs for the third country, and the determinacy of the conditions (pp. 12-17). Highly credible association conditionality has proven to be a significant

contributor to democratization in the European neighborhood in the enlargement policy (Schimmelfennig/ Scholtz, 2007, p. 25). Still, if conditionality is not connected to a credible membership perspective, it performs much weaker (Schneider, 2012, p. 1; Schimmelfennig/ Scholtz, 2007, p. 26).

Next to a realist interpretation, also constructivist variables can explain the effectiveness of democracy promotion. According to this view, the decision of domestic actors depends on a process of international socialization, during which identities and preferences are shaped (Smolnik, 2008, p. 22). Constructivists assume that states are motivated by internalized identities, values, and norms and therefore choose the most legitimate or appropriate option of action (Schimmelfennig/ Sedelmeier, 2005, p. 9). Rule transfer and adoption is explained by “the legitimacy of rules and the appropriateness of behavior (rather than bargaining about conditions and rewards), persuasion (rather than coercion) and ‘complex’ learning (rather than behavioral adaption)” (p. 9). The EU highlights the importance of an equal perception of democratic standards and sets its own goal to not only focus on economic cooperation, but also on the democratic values of the citizens and political elites (e.g. Commission, 2013a, pp. 3, 5). Many scientists, e.g. Christiansen/ Tonra (2004), Smith (2004), and Checkel (2001), argue “that EU policies are driven by a commonly shaped democratic identity rather than materialist interest maximization” (Youngs, 2010, p. 4). Even though constructivists do not deny material interests and structures, they try to understand them by taking human behavior and social structures into account (O’Brennan, 2006, p. 154). Hence, the governments of third state can also develop a normative conviction to imply democratic norms.

Transferred to the processes of implying democratic norms in a third country, constructivists mostly name *social learning and lesson drawing* as the main reasons for a successful external democratization process. *Social learning* describes the process of third countries overtaking norms because of conviction, not because of calculation. The social learning model assumes that “the EU is the formal organization of a European international community defined by a specific collective identity and a specific set of common values and norms” (Schimmelfennig/ Sedelmeier, 2005, p. 18). It supposes that nonmember states will adopt EU norms and rules if they find them appropriate in terms of values and norms and appraise the EU’s collective identity as worth aspiring to. The more legitimate the third country finds external rules, the more its domestic norms and laws resonate to external rules. Likewise, the more the government and society identify with the EU, the more likely it is that the third country will adopt the rules of the EU.

*Lesson drawing* focuses on the learning process the third country is experiencing during external democratization. It implies rational approaches because the third state overtakes norms of the EU if they offer a matching solution concept for a current national problem (Schneider, 2012, p. 9). Governments react to domestic dissatisfaction by reviewing policies and rules of other states in order to evaluate, whether these policies could effectively be transferred to their own context (Schimmelfennig/ Sedelmeier, 2005, p. 21). These policies can then voluntarily be copied, emulated, or combined with other policies; they can also serve as an inspiration for individual programs. Realists would interpret the lesson drawing model as “a change in means but not in ends” (p. 21), while constructivists would see it as a process through which general goals are changed. Social learning and lesson drawing rather depend on domestic factors than on external power.

In the following, this analysis will mainly emphasize constructivist explanations. Due to a lack of a strong incentive (membership), the leverage and effectiveness of conditionality are limited, wherefore democratization must proceed by embedding European norms and values on the long term (Gawrich et al., 2009, p. 6). The perspective of an association, if not a membership, seems to have a certain effect on the domestic situation of a third state. Georgia, Moldova, and Ukraine signed and ratified AAs with the EU until the end of 2014. These agreements do not comprise a membership perspective, but still all three states have committed to adjust their legislation and policies to those of the EU (EII, 2014, p. 7). The earlier denial to sign the AA by Ukrainian President Yanukovich in 2013 led to tumults in the country and eventually to a new election of the parliament and the president. Armenia, on the other hand, was missing a similar outburst when President Serzh Sargsyan abruptly changed the political course after the conclusion of negotiations on an AA with the EU and joined the Russian led Eurasian Economic Union in 2015. The compliance of norms between the EU and the civil society seemingly has an impact on the political change and democratic progress in the third country. Furthermore, it is assumed that interests, identities, ideas, and values of governments can be changed in a socialization process through negotiation and contact with other states and actors. For this process, social learning and lesson drawing play a greater role than a rationalist strategic cost-maximization (Gawrich et al., 2009, p. 6). In order to have leverage on domestic legal changes even without a strong conditionality, the EU can focus on the civil society and the prevalent social norms as a potential reform partner (Börzel/ Böttger, 2012, p. 165). Coinciding to John O’Brennan, it is assumed that geopolitical and economic motivations were essential in promoting democracy, but that a normative logic and values proved more influential on the results than arguments about power, territory or new markets (O’Brennan, 2006, p. 153). Furthermore, while the Enlargement policy of the EU mainly uses conditionality for implementing norms, the European



Neighborhood Policy (ENP) and EaP focus more on socialization processes by “trying to strike a balance between conditionality and soft diplomatic socialization” (Kelley, 2006, p. 39). Policies and actions of the EU while promoting democracy therefore create a field “in which realist interpretations of foreign policy have been most convincingly challenged” (Youngs, 2010, p. 1).

This thesis will illustrate how external democracy promotion in Ukraine as a country with no membership incentive is influencing its degree of democracy. Therefore, mainly constructivist arguments are being used, which focus less on conditionality and more on domestic norms, social learning, and lesson drawing. The question addressed in this thesis is **in how far domestic legitimacy of the EU’s democracy promotion has a positive effect on the degree of democratization in Ukraine**. It is argued that **the higher the domestic legitimacy of the EU’s external democracy promotion in the society of a third state, the higher the degree of democracy**. Domestic legitimacy will further be explained in the next chapter.

### 3. Theoretical Framework

According to Richard Youngs, the performance and effectiveness of external democracy promotion is influenced by the domestic factors of the third countries. He argues that “change must come from within and be tailored to specific local contexts” (Youngs, 2010, p. 8), such as the local demand for European democracy support and the nature of challenges to be addressed. Democracy promotion needs to be “relegitimized” (p. 2) by making it more demand-driven. A focus on domestic legitimacy is also supported by Börzel/ van Hüllen. In their paper “External State Building and Why Norms Matter” (2014), the authors are separating legitimacy in four dimensions: international, output, input, and domestic legitimacy.

*International legitimacy* is given if the promoted norms and values of the EU are in accordance to other internationally acknowledged international organizations (Börzel/ van Hüllen, 2014, p. 19). In the most cases, international legitimacy is not being questioned. *Output legitimacy* focuses on the institutions that are shaped by the external actor (p. 7). It is given if the created institutions and programs are having a positive effect on the actual degree of democratization. Output legitimacy, however, can only develop over a long period of time. This is why it will not be taken into consideration in this work because the impact of those institutions cannot properly be evaluated yet. *Input legitimacy* is understood as “participatory quality” (p. 10). It can be reached if the external actor is not working hierarchically while promoting democracy. But implementing domestic actors in the decision making process must not mean that these actors are actually willing or able to comprehensively implement the demanded reforms. Therefore, the leverage of the efforts of the EU depends on the degree to which external and internal preferences and norms comply.

Börzel/ van Hüllen are emphasizing *domestic legitimacy* as the deciding reason for the different success of the EU’s fight against corruption in Georgia and Armenia. Domestic legitimacy refers to the resonance of political elites and civil society alike with the promoted norms of the EU. The civil society must demand the implementation of democratic reforms and must coincide with the promoted norms of the EU’s definition of democracy. The interests of political elites are often combined with strategic plans to win or keep power and to receive more resources by pleasing external donors. Hence, formal institutional changes might appear, but they are likely to remain decoupled from behavioral practices of the elites if they do not resonate with the values and norms of society<sup>3</sup> (Börzel/ van Hüllen, 2014, p. 7). However, if the social norms resonate with the external

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<sup>3</sup> For example, money received by external donors for implementing certain rules can be (and mostly is being) used for projects and reform priorities set by the government (Falkenhain/ Solonenko, 2012, p. 58). This way, money can be misused for projects that do not benefit the society but satisfy private interests.

demands, strategic political elites have an incentive to implement institutional changes. Dissatisfaction of the status quo in society and its demand for democratic reform in accordance to the EU's suggestions can develop into domestic mobilization and to pressure from the masses. Comprehensive and effective co-operation with the EU (either voluntarily or forced upon by society), that goes beyond selectiveness, pleases the civil society (Börzel/ van Hüllen, 2014, p. 7). The political elites must be willing to transform reforms into actual practices; the leverage of a strong civil society, electoral votes, and the need for a peaceful society support this process.

When Börzel/ van Hüllen analyzed the domestic legitimacy in Georgia and in Armenia, they found that external actions from the EU only resonated to the anti-corruption norms in Georgia. The protests in Georgia increased the incentive for the prevalent regime to fight corruption substantially. This was not only done to fight political opponents, but also to win the elections. While institution building was done in both countries with the support of the EU, political willingness of the elites to actually implement reforms and to practice anti-corruption or democratic politics only existed in Georgia. In this case legitimacy "is key" (p. 26). Consequently, as long as the civil society does not actually believe in democratic norms and is not able to implement its will in political decisions, real progress will not be performed.

In the following, Youngs emphasize of the domestic political structure will be used to focus on domestic legitimacy as the independent variable. External rules and norms which the EU is promoting must be valued as legitimate by society and political elites in order to be respected and implemented.

## 4. Methodology

According to the theory of Youngs, the domestic political structure of a country is important for the use and impact of external policies. Domestic legitimacy, as defined by Börzel/ van Hüllen, will be chosen as the independent variable, even though it is taken into account that democratization is a complex process which consists of many influential independent variables, which was shown above. The dependent variable will be the degree of democracy. In the following, domestic legitimacy and democracy will be defined and their operationalization for this work will be explained.

### 4.1. The Independent Variable: Domestic Legitimacy

According to Börzel/ van Hüllen, domestic legitimacy is defined as “the domestic resonance or conformity of the norms and rules the EU promotes with the survival strategies of incumbent elites and the prevalent social norms” (Börzel/ van Hüllen, 2014, p. 10).

For analyzing domestic legitimacy, the willingness of citizens to protest, the number of protest events, as well as the reasons for protesting will be analyzed, in order to understand the main demands of the civil society. The demand for democratic norms must not necessarily imply the existence of such norms in the political reality and an existing civil society must not automatically lead to democratic progress if the society has no power or is not demanding democratic change. Protests show the dissatisfaction with the current political or economic situation. Protesters take the freedom of speech, a pluralistic society, and political participation seriously, even though these norms might not be guaranteed or implemented by law. These sources will be drawn from the Ukrainian Centre for Society Research (CSR)<sup>4</sup>.

Furthermore, the quantity, quality and societal orientation of civil society organizations (CSOs) will be looked at. This will shed light not only on the values the society is promoting, but it will simultaneously show how the civil society is engaging even in a difficult legal environment for CSOs. While these organizations might not be powerful enough to bring about democratic change, the substance of their agenda can be an indicator for the demands in society. Information about the development of CSOs is given by the *CSO Sustainability Index* from the United States Agency for International Development (USAID)<sup>5</sup> as well as by the Counterpart Creative Center (CCC)<sup>6</sup>.

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<sup>4</sup> The CSR is an independent non-profit center that analyzes social problems and collective protests in Ukraine by using data from professional sociologists, political experts, economists, culture experts, historians, and lawyers (Cedos.org, 2015).

<sup>5</sup> USAID is an U.S. Government Agency that aims to end extreme global poverty by stabilizing countries and preventing conflicts through investing in agriculture, health systems and democratic institutions (Usaid.gov, 2015).

<sup>6</sup> The CCC is a Ukrainian non-governmental organization focusing on the development, internal structure, and performance of CSOs in Ukraine (Ccc-tck.org, 2015).

Additionally, the Ukrainians' perception of CSOs and volunteer work as stated in the *National Security & Defense* magazine will be analyzed. The magazine is published by the Ukrainian non-governmental think tank Razumkov Centre and the data will be used to gain information in the expectations, demands, and social engagement of the civil society.

Lastly, public opinion polls display how Ukrainians are evaluating democratic norms, and in how far they are valuing them as important. Some surveys also expose the perception of Ukrainians on the EU as a promoter of democracy and as an influencing external actor. This information is helpful to understand the impact the EU has on society and on politics. Data will be drawn from opinion polls of the Razumkov Centre, the CCC, the Ilko Kucheriv Democratic Initiative Foundation (DIF), and the Kiev International Institute of Sociology (KIIS)<sup>7</sup>. Statements of certain politicians as well as party programs will be analyzed in order to gain information about the political elites' perception of democracy. This data will be drawn from the Razumkov Centre.

The data used to operationalize domestic legitimacy consists of the quantity and quality of protest events and CSOs, as well as of public opinion polls and quotations of politicians. It is taken into account that public opinion polls only represent a sample of society, which can limit the internal validity of the poll. Still, the polls have a sampling size of around 2.000 respondents living in all regions of Ukraine and representing the adult population of Ukraine by age, gender, area of residence, and settlement type (e.g. KIIS, 2015, Razumkov, 2013). The comparison of several sources furthermore reinforces a greater validity, for the results can be compared in order to avoid biased outcomes. Taking national as well as international think tanks and non-governmental organizations (NGOs) into account, a more comprehensive picture is given. Additionally, credibility of the sources is given, for they are internationally respected and used as information platforms for example for the Ukrainian government, parliament and universities (Razumkov.org, 2015).

#### 4.2. The Dependent Variable: Degree of Democracy

The dependent variable is the degree of democracy in Ukraine. Defining and evaluating democracy is not only a methodological challenge, but is also a question of perception and individual accentuation. Defining democracy appears as the first problem. The EU emphasizes democratic values and democracy promotion in several of its main documents, agreements, and strategy papers. But in all

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<sup>7</sup> The DIF is a Ukrainian think tank focusing "on developing reasonable recommendations in the sphere of democratic transformations and Ukraine's European integration for decision makers and civil society representatives" (Dif.org, 2015). The KIIS is a private Ukrainian company which co-operates with the National University of Kiev-Mohyla Academy and which focuses, besides others, on socio-economy, marketing, political studies, and health research (Kiis.com, 2015).

cases, the EU lacks to give a clear definition of what is meant by talking about democratization and democratic values (OPPD, 2009, p. 10).

In the case of democracy promotion in the EaP countries, it is useful to take a look at the democratic priorities the EU has for these countries. Under the EaP, the EU has started in 2011 to annually publish the *European Integration Index for Eastern Partnership Countries* (EII), which is evaluating and comparing the progress the six partner countries are making toward integration with the EU. For analyzing the section *deep and sustainable democracy progress* in the index, the researchers are using qualitative and quantitative data from independent experts, the civil society, public authorities, or EU institutions. The following aspects are being looked at: elections, media freedom, association and assembly rights, human rights, independent judiciary, quality of public administration, fighting corruption, and accountability. These indicators are chosen because they are the most problematic democratic deficiencies of the six EaP countries.

This section will therefore be analyzed for evaluating the democratic progress in Ukraine. The data used in the EII will be considered as well as the *Corruption Perceptions Index* (CPI) of Transparency International<sup>8</sup> for evaluating the degree of corruption. Also, report on elections, published by the Organization for Security and Co-operation in Europe (OSCE) will be analyzed. Furthermore, the *Nations in Transit* (NIT) report by Freedom House<sup>9</sup> will be used as a reference source. The index is a “comprehensive, comparative, and multidimensional study of reform in the former Communist states of Europe and Eurasia” (Freedomhouse.org, 2015). It focuses on 29 countries and the chosen analyzed sections are in compliance with the EII’s criteria. Furthermore, the annually published *Progress Report* by the European Commission will be taken into consideration. The reports evaluate the progress of the ENP countries toward the objectives of the Association Agendas and Action Plans (European Union, 2015a).

The data used for analyzing democracy is taken from international NGOs as well as from reports by the EU. Therefore, an exclusive European viewpoint on the development of Ukraine is avoided. Still, operationalizing democracy is problematic, for an all-embracing universal definition of democracy does not exist. Concentrating on only one aspect of democracy, e.g. free and fair elections, can present a more precise development of this variable. Nevertheless, this would only

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<sup>8</sup> Transparency International is a worldwide politically non-partisan organization working on stopping corruption and promoting transparency, accountability, and integrity across all sectors of society (Transparency.org, 2015).

<sup>9</sup> Freedom House is an independent watchdog organization, and covers the sections electoral process, civil society, independent media, national democratic governance, local democratic governance, judicial framework and independence, and corruption (Freedomhouse.org, 2015).

insufficiently represent the concept of democracy as a whole. Hence, the criteria used in the EII and the NIT prevent a maximalist definition, for they focus on the most problematic areas in the democratic development of the CEEC. Comparing some of these criteria with additional data from independent sources extends the empirical referents and therefore improves the reliability of the outcomes, if these are in compliance with each other.

#### 4.3. Research Design

The research design used will be a case study. According to Robert Yin, a case study is useful if “(1) the main research questions are “how” and “why” questions; (2) a researcher has no or little control over behavioral events; and (3) the focus of study is a contemporary (...) phenomenon” (Yin, 2014, p. 2). The research question is asking for the impact of legitimacy on democratization, hence, a case study offers the opportunity to have a holistic view on the independent variable, which includes several sources of data. To focus only on a survey or an experiment would give too little information on the source, amount and quality of the impact of legitimacy. Furthermore, direct observations can be made, therefore, “relevant behaviors cannot be manipulated” (p. 12). A case study enables the researcher to use several forms of data collection (in form of interviews, statistics, etc.) that help to give a holistic view of the examined case. Additionally, the focus of study is not only a historical, but also a contemporary phenomenon that “investigates the case in depth and within its real-world context” (p. 16). This is why a case study is the best choice as a research design. The single case study will be longitudinal, meaning that the same case will be studied at different points in time. This way, the assumptions of Youngs and Börzel/ van Hüllen can be tested, as they are focusing on the change of conditions over time and their underlying processes (p. 53). Furthermore, it enables the researcher to use the same or similar set of data for the different years, which will facilitate a reliable comparison.

The timeframe of this thesis comprises the years between 2009 and 2014. It will start in 2009, for the EaP program has just been implemented and the consequences of the Orange Revolution from 2004 have had enough time to prove its democratic value under President Viktor Yushchenko. The next point of analysis will be the year of 2012, when Viktor Yanukovych has been president for two years. At this time, negotiations with the EU on the AA had just been finished (October 2011), although doubts have been expressed on the democratic development under Yanukovych’s government. The third analysis will be of 2014, the year after Yanukovych denied to sign the AA, which led to protests on Maidan and later to the election of a new parliament under President Petro Poroshenko, who started administrative, political, and economic reforms. Through the longitudinal design, not only the changes over a period of five years will be analyzed, but also the

protests of 2013/ 14 will be focused on as a “critical event” (Yin, 2014, p. 53) which allows a before and after comparison. By using a longitudinal case study design, it is possible to have a holistic view on the process of democratization in Ukraine.

By comparing the status quo of these three points in time, attention must be paid to smallest changes. Due to the short temporal distance between these years, upcoming comprehensive changes can be difficult to realize. Also, due to the currency of this research, prognoses of the development after 2014 are difficult to be made. Still, the research will present tendencies of the relation between domestic legitimacy and democracy in the last six years. The short observed timeframe is useful for recognizing the impact of certain domestic or international political and sociological events on the democratic development in Ukraine. It is also necessary for analyzing the general impact of the democracy promotion through the EaP, which itself is only a young policy of the EU.



## 5. Democracy Promotion in the Eastern Partnership Program

The EaP was launched in May 2009 at the EU Prague Summit. The program is part of the ENP, which offers sixteen neighboring countries<sup>10</sup> a privileged relationship with the EU through political associations, economic integration, increased mobility, and people-to-people contact in order to strengthen the “prosperity, stability and security” (European Union, 2015b) of all. The ENP was reviewed in 2010/ 11 with a stronger focus on deep and sustainable democracy according to the EU’s definition of democracy, and the assistance to non-state actors was enhanced. The EaP is “based on commitments on the principles of international law and to fundamental values, including democracy, the rule of law and the respect for human rights and fundamental freedom [...]” (Council, 2009, p. 5). By supporting political and socio-economic reforms, approximation toward the EU will be increased. Furthermore, the partner countries and the EU agreed on the importance to promote the stipulated purposes and principles of the EaP among the public and to aim for the public’s support of its values (p. 11). In this way, legitimacy of the actions of the EU shall be guaranteed. From the starting point of the program until today (2015), 3.2 billion Euros have been spent on projects, co-operation, and support for the six partner countries (European Union, 2015c). Hence, the EU is the major donor of the eastern European neighborhood region (Commission, 2013b, p. 7).

### 5.1. Democracy Promotion and Domestic Legitimacy in 2009

After the Orange Revolution in 2004, and in compliance to European requirements comprised in the EaP, democratic institutions and democracy encouraging laws were established under President Viktor Yushchenko. Freedom House rated Ukraine as a “free” democracy (Freedomhouse.org, 2010). The democracy score of Nations in Transit was 4.39 with 1 being the best and 7 being the worst (NIT, 2010). Especially the free media improved massively in Ukraine after the Orange Revolution<sup>11</sup>.

But, according to Gerhard Simon, “[t]he democratic order [was] accepted in principal, but in practice it [was] often incapable of functioning” (Simon, 2009, p. 15). Democratic institutions remained unstable and, “the country’s system of governance [was] fragile and inefficient, demonstrating an evident deficit of rule of law” (Freedomhouse.org, 2010). Politicians did not follow democratic norms, even though they might use democratic rhetoric for electoral reasons (2010). According to Freedom House, there was still no real division of power, the judiciary lacked a public legitimacy of its decisions, the financing of the court system was insufficient, and the process for appointing judges was inefficient and non-transparent (2010). Complaints of torture and

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<sup>10</sup> ENP countries are the six EaP countries as well as Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, and Tunisia.

<sup>11</sup> For an in-depth analysis of the media in 2009 see Besters-Dilger, 2009.

ill-treatment in penitentiary and detentions facilities continued to be reported by human rights organizations and a comprehensive anti-discrimination legislation, as recommended by Council of Europe monitoring bodies, has not experienced any progress (Progress Report, 2010, p. 5).

Furthermore, corruption continued to be one of the biggest national problems. Transparency International ranked Ukraine 146 out of 180 countries and territories, which made it the most corrupt country of all EaP states (CPI, 2009). Official bodies were lacking transparency, and the government was unwilling to fight corruption. Anti-corruption legislation, in line with international standards, was supported from the parliament, and a package of laws was worked out, but its implementation was first postponed to April 2010, and eventually took place in 2011.

The missing sufficient implementation of democratic norms, expected after the Orange Revolution, also reduced the support of a democratic system. According to a public opinion poll by the DIF, the number of citizens unconditionally supporting democracy was in minority compared to the total number of those who would, under special circumstances, prefer an authoritarian regime, and those who did not care (Sydoruk, 2013, p. 7). Furthermore, the option of a non-democratic government and a strong leader instead of parliamentary discussions were preferred by a greater amount of people in society than in 2006 (pp. 6, 7). Interpreting the data, it seems plausible that the higher level of democracy after the Orange Revolution was noticed by society, but that the public also supported democracy less and became disappointed in its quality and in democracy itself (p. 7). The missing support of democratic ideas in society was also seen in the relatively low participation of citizens in CSOs (USAID, 2010, p. 220). While the perception of CSOs in society was mainly positive, the appraisal of the influence of CSOs on the broader society was rather low (Stewart, 2009, p. 185). Furthermore, the number of societal protests was less than 200 per month; this amount almost doubled in 2012 (CSR, 2013, p. 4).

Still, attempts of the society to influence the political system existed. NGO leaders have tried to increase pressure on the parliament to adopt a new law for civic organizations, as the current legislation did not correspond to the Council of Europe norms and standards, but no progress had been made (NIT, 2010). CSOs strongly co-operated with each other and networks covered particular issues and interest at national, regional, and local level (USAID, 2010, p. 218). Around 3.000 – 4.000 active associations and charitable organizations were registered by the Ukrainian government<sup>12</sup>

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<sup>12</sup> Adding the non-active organizations, 63.000 associations existed in 2009 (USAID, 2010, p. 218). According to the CCC, “active CSO” means that it is legally registered, has at least two years of experience implementing activities, has implemented at least two programs or projects, has successfully completed several projects, and is known in the region (CCC, 2010, p. 18).

(USAID, 2010, p. 218). While potential for a greater leverage on the elites existed, the influence of the civil society altogether has been weak in 2009.

The willingness of political elites to sufficiently implement democratic norms has also been low. The postponement of important laws revealed the political elites' unwillingness to seriously fight corruption and to make a fast democratic progress (NIT, 2010). Besides, oligarchs still had a "disastrous" (Pleines, 2009, p. 116) influence in the political system, for they presented their individual interests in parliament and used undemocratic methods to promote these. Political elites also implemented many political and legal obstacles which hampered the work of CSOs<sup>13</sup>. CSOs received their main source of financial assistance from international donors; domestic grants were a funding source for only 15 % of the CSOs (CCC, 2010, p. 41). The high dependence on foreign funding of CSOs shows that the government had not perceived or did not want to accept the work of CSOs as a fundamental attribute of a democratic system with a strong civil society.

The EU only insufficiently promoted democratic norms in society and neglected the society's credibility as a demander for democratic change. Concerning the implementation of the policies of the EU, only little financial attention was paid to improve the capacities and possibilities for civil society or to involve it properly in the assessment and monitoring of EU aid (Shapovalova/ Youngs, 2012, p. 4). Under the European Neighborhood and Partnership Instrument, Ukraine was given 494 million Euros between 2007 and 2010 to fulfill the objectives in the Association Agenda (Progress Report, 2010, p. 22). Even though the three priorities of this were support for democratic development and good governance, support for regulatory reforms and administrative capacity building, and support for infrastructure development, the implementation of the demanded measures were mostly progressing in the latter two priorities. Also, most of the funds were channeled to governments. Involvement of local authorities or the civil society in the assessment and monitoring of EU aid was rather low (Shapovalova/ Youngs, 2012, p. 14).

Consequently, the weak emphasize on democratic values in the external actions of the EU was also noticed by the Ukrainian society. The civil society mistrusted the EU as an actor of promoting democracy. According to the opinion polls of the Razumkov Center, only 15.1 % believed that the EU was interested in democracy promotion in Ukraine, while the majority (50.7 %) believed that the EU followed pragmatic interests like opening a new market for EU goods and using Ukraine's

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<sup>13</sup> These obstacles were for example unclear legal definitions of a CSO, vague formulations of untaxed activities, problems of participation in state procurement procedures or the absence of incentives for legal entities and individuals to voluntarily support CSOs hindered the development of these organizations (Razumkov, 2007, pp. 25, 26).

natural and energy resources (Razumkov, 2010, p. 48). Additionally, 44 % supported the idea that Ukraine should join the EU, while 38 % denied that (p. 50). This only slightly positive conviction was also in compliance to the answers concerning the perception of the current relation between both actors: the great majority rated the relations between the EU and Ukraine as “unstable” (57.9 %), followed by “bad” (15.4 %), and eventually rated as “good” by only 12.9 % (p. 50).

The mechanism of domestic legitimacy leading to an increase in the degree of democratization was not able to work in 2009. This can be explained by the following reasons. First, the civil society was too weak to put pressure on the political elites and was not sufficiently encouraged by the EU. Second, the EU did not credibly promote democracy in Ukraine and was also not perceived as a strong external actor by society. Third, political elites did not feel the necessity to react to democratic demands from the EU because a strong civil society, supporting democratic norms, that could put pressure on the elites, was missing.

## 5.2. Democracy Promotion and Domestic Legitimacy in 2012

In 2012, the degree of democracy was decreasing to 4.86, now evaluating Ukraine as only “partly free” (Freedom House, 2012; NIT, 2013, p. 579). The European Commission stated that Ukraine presented a “mixed picture” (Progress Report, 2010, p. 2) of development on democracy and therefore decided to delay the signature of the AA, which was finalized in November 2011. Some positive developments were made in the field of legal reforms and in the area of freedom of association. Still, the EU strongly criticized the political events and authoritarian development in the country (EII, 2012, p. 16). The Ukrainian government focused mostly on economic and technological aspects of the EU reform priorities, and less on democratization or the relations between the society and the government (CsIn.info, 2011).

The main negative trends in 2012 were to be seen in a continued crackdown on the opposition<sup>14</sup>, a politically dependent judiciary, limitations in freedom of media, growing corruption, and a non-transparent public procurement (EII, 2012, p. 6; EII, 2013, p. 8). The parliamentary elections in October 2012 were expected by the EU as the “major test of Europeanness” (EII, 2012, p. 6), but the OSCE evaluated the election as a step backwards compared to the last elections (OSCE, 2012, pp. 1, 2). A non-discrimination framework has been adopted, which failed to meet EU standards; an institutional framework against corruption was started, but lacked an effective prosecution and conviction of corruption cases; Bologna principles were aspired to be implemented in academics, but the state was still trying to control universities (EII, 2012, pp. 52-54, 63). Even

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<sup>14</sup> For example the treatment of the political opponents Tymoshenko and Lutsenko, which was seen as a “red line” (Wilson, 2011, p. 2) for negotiations with the EU.

though the news media was still mainly pluralistic, self-censorship, biased coverage in favor of the government and physical attacks against journalists remained a problem (NIT, 2013, p. 580). President Yanukovych emphasized personal connections and predominated over the legislature and judiciary. The justice system was undermined by political influence and politicians trying to alter the constitution (EII, 2012, p. 53). Despite decentralization rhetoric by the government, local self-government was still hindered by “an excessive concentration of power and revenue at the national level” (NIT, 2013, p. 582). Furthermore, corruption remained one of the biggest problems. In its CPI from 2012, Transparency International rated Ukraine 144 out of 176 (CPI, 2012). Altogether, “Ukraine has moved even further away from its one-time status as the ENP poster child” (EII, 2012, p. 6).

Meanwhile, the demand for democratic change in society was increasing in 2012. According to the DIF, twice as many Ukrainians have valued the quality of democracy in their country as unsatisfying rather than as satisfying in 2013 (Sydorchuk, 2013, p. 5). It is noteworthy to point out that “Ukrainians tend to value democracy more when it is lacking” (p. 6). According to the public opinion poll, 54.6 % of the polled people unconditionally supported democracy in 2013, which was the highest number since the survey has started in 2004 (p. 7). When Yanukovych came to power in 2010, the citizens noticed the rollback of democracy and started to evaluate it higher as a political regime. Likewise, the number of societal protests grew from 2.277 in 2011 to 3.636 in 2012 (CSR, 2013, p. 5). These protests were increasingly banned by local courts and answered with harassment of demonstrators by the police (EII, 2013, p. 8). While handling demonstrations, an excessive and increasing use of force by police and security personnel was noticed since 2010 (p. 72).

CSOs enhanced their engagement in domestic politics. They were involved in the decision-making process and implementation of policies, certain competencies were delegated from the government to CSOs, and resources for sustainable CSO activities were provided. CSOs were furthermore able to monitor politicians and to take up a confrontational stance with the government. The organizational capacity of the civil society was improving due to new laws and regulations from the government (USAID, 2013, p. 209). In 2012, around 85.000 associations and charitable organizations existed, which was a strong increase since 2009 (p. 210). Still, registration was difficult for NGOs under Ukrainian law and some legal areas (e.g. a complicated Tax Code) have not been improved and were still hindering the work of NGOs (p. 210). The public image of NGOs has slightly improved (p. 215). About 61 % of the population believed that NGOs contribute to the states development but still only 52 % valued them as important which is a reduction from 76 % in 2011 (p. 215). According to Freedom House, the civil society continued to play a crucial role in defending democratic values and practices in 2012 (NIT, 2013, p. 581). However, although the civil society was

engaged in a variety of activities, it remained unable, just as the domestic opposition, to change the system as such (Solonenko, 2012, p. 2).

The democracy promotion of the EU was intensifying. The reviewed ENP in 2010 led to a strong focus on the promotion of deep and sustainable democracy. Therefore, “[t]he EU also stressed the role of civil society bringing about [...] democracy” (European Union, 2015b). The civil society was seen as “a crucial component of any democratic system and [...] an asset in itself” (Commission, 2012a, p. 3). Hence, the EU increased its financial support for the civil society<sup>15</sup>. Since 2011, the program Non-State Actors and Local Authorities in Development (NSA&LA) provides grants up to one million Euros for projects that strengthen the capacities of CSOs and local authorities. Still, the program focuses mostly on the facilitation of social and economic development and less on supporting democracy by empowering non-state actors (Shapovalova/ Youngs, 2012, p. 4). Despite the financial assistance of the EU to CSOs, the civil society had only a very limited access to the policy process of European Integration (EII, 2012, p. 65).

Even though norm compliance between the civil society and the EU was growing, the EU’s increased democracy promotion was still not able to have a positive impact on democracy. One reason for this phenomenon can be found in the deteriorated relationship with the Ukrainian political elites and the EU. Political elites were giving ambiguous signals to both sides, the EU and Russia, and lacked the political will to implement the required conditions to sign the AA in November 2013<sup>16</sup>. The leverage of the EU appeared to matter only little to Yanukovych’s political course, as did the impact of the civil society. Furthermore, due to the worsened democratic situation in 2012, the abuse of public funds, and the aggravated political compliances between the EU and Ukraine, the EU withdrew a substantial amount of funding according to the “more-for-more” principle that supports EaP countries since 2011 with additional funding if progress in the field of democracy is made (EII, 2013, p. 86).

Also, the society still did not perceive the EU to be a crucial actor in bringing democratic change, and saw the EU as a player that can bring socio-economic benefits rather than comprehensive democratic progress. According to public opinion polls by the Razumkov Centre and

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<sup>15</sup> The main funding source was the European Endowment for Democracy, which “supports local actors [also journalists, bloggers, non-registered NGOs, or political movements] of democratic change in the EU Neighborhood and beyond” (Democracyendowment.eu, 2015; Commission, 2012b, p. 1). Also the Civil Society Facility has been established, through which 4 million Euros were given to Ukrainian CSOs in 2012-2013.

<sup>16</sup> Vitaliy Kaluizhnyi, Chairman of the Verkhovna Rada for example was strongly criticizing the external influences of the EU in their integration plans, saying that “Ukraine is not an old maid who wants to marry at any price” and that “those seeking our loyalty should start with themselves” (Razumkov, 2013, p. 57).

the DIF, the most commonly named benefits of possibly joining the EU were a higher level of social protection (47 %) (Razumkov, 2013, p. 115) and generally higher living standards (28 %) (Zolkina, 2013, p. 7), rule of law (32 %) (Razumkov, 2013, p. 115) and lastly a developed democracy (27.1 %) (p. 115). The expectations toward the effect of a European Integration were mostly positive. Visa-free travel, perfection of the judicial system, and access to advanced technologies and financial resources were stated as the main positive effects (p. 121). Development of democracy was only named by 13.8 %. This goes in compliance with other results that state mostly economic, rather than democratic or social benefits from an accession. Also, Ukrainians believed that the EU was mainly interested in co-operation with Ukraine for economic reasons (p. 108).

The civil society demanded democratic reforms, but due to a lack of a strong opposition, protest potential in society could barely be channeled into a constructive and powerful force (EII, 2013, p. 8). Even though CSOs were given more legal rights, they still had only a small leverage on political change and national as well as international policy implementation. Domestic legitimacy of the EU's improved focus on external democratization was still not able to sufficiently increase the degree of democratization in Ukraine.

### 5.3. Democracy Promotion and Domestic Legitimacy in 2014

In 2014, Freedom House upgraded Ukraine's democracy score from 4.93 in the previous year to 4.75 (NIT, 2015, p. 661). Nevertheless, evaluating the degree of democracy in 2014 is difficult, since many reforms have just been implemented and their effectiveness and democratic impact still need to be studied. Developments can only be sustainable, if systemic failures are abolished and the state starts to function properly and perform effectively and accountably (EII, 2014, p. 45).

Throughout the year of 2014, Ukraine has changed "from a de facto privatized, autocratic state" under Yanukovich to "a system where political competition is vibrant and core political freedoms and human rights are respected" (EII, 2014, p. 45). According to the OSCE, the presidential election in May and the parliamentary election in October were largely in compliance with EU and international standards<sup>17</sup> (OSCE, 2014a, p. 1; OSCE, 2014b, p. 1). The signed AA in 2014 gives hope for the consolidation of democratic norms, human rights, and fundamental freedoms, which can result in improvements of the quality of elections (EII, 2014, p. 75). Although the agreement does not comprise a membership perspective, Ukraine has committed to adjust its legislation and policies to those of the EU (p. 7). The AA states that "[t]he aims of this association are to promote gradual

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<sup>17</sup> Still, about 15 % of voters could not participate in the elections because of the occupation in Crimea and parts of Donbas (NIT, 2015, p. 663). Also, some minor incidents of violations or fraud were reported, including indirect vote buying and violence (Progress Report, 2015, p. 5).



rapprochement between the Parties based on common values [...]”<sup>18</sup> (Association Agreement, 2014, p. 6). In return for an approximation to European laws, principles, and values, Ukraine is given political and financial support in return as well as access to EU markets and visa-free travel (EII, 2014, p. 8).

The elections brought a significant turnover in the political establishment, as five European friendly parties formed a ruling coalition<sup>19</sup> (NIT, 2015, p. 662). The parliament gained more power and more options to effectively control the executive (EII, 2014, pp. 45, 46). The freedom of expression, freedom of media, and freedom of assembly arose and improved especially after the negative trends in the beginning of the year (Progress Report, 2015, p. 3). Progress on judicial reforms and law enforcement reforms was still very low, and new legislation has not been produced even though several proposals were discussed (p. 3). An independent judiciary is not yet established (EII, 2014, p. 46). A parliamentary commission for constitutional reform was established, which is working on the horizontal division of powers, the decentralization reform, and the reform of the judiciary (Progress Report, 2015, pp. 5, 6).

Fighting corruption was still the main challenge in 2014. Several anti-corruption laws, an Agency for the Prevention of Corruption, and a National Anti-Corruption Bureau were established, all of which were welcomed by domestic NGOs and international organizations (NIT, 2015, p. 677). Still, exceptions in the rules and vague stipulations hindered the effectiveness of these laws (EII, 2014, p. 80). The political will and comparative probity of the government can be evaluated optimistically, but “the national strategy on corruption still needs to be supported by an implementation plan setting out precise measures, deadlines, indicators, responsibilities and an indication of available resources” (Progress Report, 2015, p. 7). This is why Ukraine was still rated poorly in the Transparency International CPI, ranking 142<sup>nd</sup> out of 175 countries and territories (CPI, 2014).

In 2014, the demand for democratic change in society was high. While the protest movement started from a small group of pro-European students, it later became the so called “Revolution of Dignity” (KyivPost, 2014), which stresses the will to get rid of unjust authorities (Lyubashenko, 2014, p. 74). According to the DIF, the main motivation of protestors on Maidan in February 2014 were the hard repressions against protestors (61.3 %), followed by the desire to change the quality of life in the country (51.1 %), Yanukovych’s decision not to sign the AA with the EU (47.0 %), and the desire

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<sup>18</sup> These common values are defined in the preamble as “respect for democratic principles, the rule of law, good governance, human rights and fundamental freedoms, [...]” (Association Agreement, 2014, p. 4).

<sup>19</sup> Respectively, the Petro Poroshenko Bloc, the Popular Front, Samopomich (Self-Rule), the Radical Party, and Batkivshchyna (Fatherland) (Rferl.org, 2015).



to change authorities (45.6 %) (Dif.org, 2014). The national demand for comprehensive reforms and a democratic change in order to gain justice, (economic) security, and wealth played a decisive role. These aims are in accordance with the EU's catalogue of democratic values. According to an opinion poll of KIIS, only 14 % of Ukrainians believed that things were going into the right direction in Ukraine before the protests on Maidan, while 68 % believed they were going in the wrong direction (Khmelko, 2014). These numbers changed for the better after the protests in May 2014 with 20 % and 60 % respectively (2014).

The civil society was now perceived as an influential player in national affairs by the state, politicians, and the public. Its influence increased rapidly, and the public had more trust in CSOs, civil movements, or individuals than in state institutions or parties (USAID, 2014, p. 239). The protests in 2013/ 14 led to a big change in the legal environment for and the public perception of CSOs. Around 94.000 public or creative associations, charitable organizations and self-regulated bodies have been registered (USAID, 2014, p. 236). CSOs increased their lobbying and pushed for amendments of laws on education, anti-corruption, public administration, or volunteer activities<sup>20</sup> (USAID, 2014, p. 240). Registration processes became much easier and the tax system was more favorable for NGOs and public associations. The troubling situation derived from the protests in winter also encouraged more people to volunteer or to self-organize mass movements (p. 236). Furthermore, local donations from citizens or foundations have become more important (p. 238). Local and national authorities changed their opinion about CSOs; they now appreciate their influence in EU integration policies and in the law reform agenda. The civil activists' expertise was used in top positions or as an advisory function in ministries and parties (p. 243).

As in the previous years, additional support of the EU depends on the political will of the Ukrainian government to implement reforms. The new leading coalition under Poroshenko sounds promising. Four of the five ruling parties in 2014 explicitly mentioned the ideological or economic importance of closer co-operation with the EU in their election programs<sup>21</sup>. However, the trustworthiness of political statements remains to be proved. While the majority in society and most

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<sup>20</sup> For example, a Reanimation Package of Reforms has been initiated by civic activists, experts, and journalists during the protests in January 2014. Its platform is giving advice and clear proposals for new laws to the parliament (Rpr.org, 2015).

<sup>21</sup> Petro Poroshenko's Block: "In foreign policy, the priority for our party is Ukraine's full-fledged membership in the European Union, in order to live in the 'new, free family'. The way to the EU for us is an instrument, an incentive to change the country and introduce European standards of living in it". Batkivshchyna: "Our goal remains unchanged – Ukraine has to become an integral part of united Europe". People's Front: "Our Goal is European Ukraine". Radical Party: "Association with the EU will help us sell our products in Europe. We will expand production, and construct facilities closer to the EU border, will create new jobs" (all: Razumkov, 2014, p. 39).

of the political elites seem to prefer a democratic form of governance in 2014, “[it] remains to be seen whether the push from civil society and the pressure from outside can offset the veto players who favor the old rules of the game, where oligarchs guard privileged access to decision-making and public resources” (EII, 2014, p. 47).

The EU promoted its values through the AA and through additional support of the civil society, especially during and after the protests. It is given greater leverage for example through encouraging it to engage in the development of a constitutional reform. Furthermore, legal and institutional reforms were established in order to let citizens participate in the public decision-making process (Association Agenda, 2015, pp. 5, 12). Besides, the Ukrainian civil society received the highest support of all EaP countries with 4.1 million Euros by the end of 2013 under the European Instrument for Democracy and Human Rights (EIDHR)<sup>22</sup>, the NSA&LA and the Civil Society Facility (EII, 2014, p. 96). A civil society support program provided another 10 million Euros<sup>23</sup> (Razumkov, 2014, p. 21). An EU-Ukraine Civil Society Platform was created in 2014, which is supposed to help develop a long-term strategy for democratization in Ukraine. The platform is non-political and aims to fight corruption, unite the country socially, promote European values in Ukraine, and support a democratic identity (EESC, 2014).

Furthermore, the EU supported the government to establish democratic institutions. Financial support for structural reforms in state administration, anti-corruption efforts, judiciary, administration, regional and rural development, or Civilian Security was granted through different programs. Besides others, a support package worth 11.175 billion Euros for 2014-2020 was adopted by the European Commission (Razumkov, 2014, p. 21). Two macro-financial assistance programs allocated funds worth 1.36 billion Euros to support important structural reforms in 2014. The European Commission is willing to offer a third program if the “Ukrainian leadership demonstrates the willpower to conduct reforms” (p. 21). Under the “more-for-more” principle, Ukraine received another 40 million Euros in 2014 (EII, 2014, p. 94).

Through the increased support of the EU in the development of democracy, the perception of the EU as a credible promoter of democracy in Ukraine improved. The support for EU integration

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<sup>22</sup> Since the launch of the EIDHR in 2007, more than eight million Euros have been spent on 38 projects supporting Ukrainian NGOs on a comprehensive set of human rights and democracy related issues (Commission, 2014a, p. 1).

<sup>23</sup> The Commissioner for European Neighborhood Policy Štefan Füle commented this decision saying that “[t]he Civil Society plays a key role in the reform process. This financing agreement will support it in monitoring the reforms and providing the feedback on them to the Government. The engagement of the Civil Society is essential if national reforms are to succeed” (Commission, 2014b).

increased about 10 %, to 57 %, between 2013 and the end of 2014 (EII, 2014, p. 47). Also, 61.6 % had a completely or mostly positive attitude to the EU, while only 25.3 % had a completely or mostly negative attitude (Razumkov, 2014, p. 75). Still, it becomes visible that the influence of and the hope in the EU did not play the crucial role for the developments on Maidan but that they were rather the spark. While the *Euromaidan* started with a clear support of further European integration and was therefore seen as a European values-oriented movement, it was never purely ideological. A big socio-economic motivation was present. The positive image of the EU predominantly came from the wish to gain the same living standard like other Europeans (Lyubashenko, 2014, p. 64). The Ukrainians perceived the EU as insufficiently supporting the protestors on Maidan, and Ukraine as a whole (EII, 2014, p. 47). About one half of the surveyed were skeptical about the strengths of the efforts of the EU in trying to build a stronger relationship with Ukraine, and 53 % said the EU has not done enough to draw Ukraine closer to the EU (KIIS, 2015, p. 16). Ukrainians were encouraged to demand sustainable democratic reforms “for their own merits” (EII, 2014, p. 47), regardless of whether this reforms would lead to a membership perspective or not. Still, such reforms are in line with the EU standards.

Only in 2014 can the hypothesis be confirmed that a high domestic legitimacy leads to an increase of democracy. After the events on Maidan, the EU drastically strengthened its (financial) support of the civil society and emphasized the urgent need of democratic reforms. The EU became a much stronger actor in the process of democratization, because the choice for a European way became indispensable for the political elites. The demand of society to sign the agreement that would bring not only economic but also political change, and that would be connected to necessary democratic reforms, made the new government accept the conditions demanded in the agreement. They include reforms of the constitution and the judiciary, fighting corruption, human rights, freedom of expression, and other policy fields (Association Agenda, 2015, pp. 5-18). The EU’s demand for democratic change had a much stronger leverage, because society supported the signing and the elites had no other chance than to choose the “path toward a modern European democracy” (Commission, 2014c).

## 6. Summary of the Findings

In the introduction it was asked in how far the EU's domestic legitimacy is influencing the degree of democracy in Ukraine. It was assumed that the higher the domestic legitimacy of the EU's external actions and strategies of democracy promotion in the society of a third state are, the higher the degree of democracy will be.

This hypothesis can be confirmed when looking at the year 2014. In this period, the demand for democratic reforms was highest in society, and the EU promoted these norms mostly through the legally binding conditions in the AA. The mechanism of domestic legitimacy seemed to have worked: the EU's external actions were in compliance with the pressure of society and the support of the EU, which led to an increase of democratization. The EU's offer to intensify co-operation through the AA, created an incentive for the new government to please society and therefore also their electorate. Thus, compliance between demanded norms of society and the EU led to the creation of a new government and the signing of the AA which seems to be a promising precondition for a further increase of democracy in Ukraine. The EU's offer of closer co-operation through the AA was the spark for the protests and an adequate solution to later pacify the society.

Domestic legitimacy was not able to increase democracy in 2009. The civil society was too weak to put pressure on the government and unconditional support for democracy was also not as strongly prevalent as in the later years. The EU was furthermore not perceived as a credible promoter of democracy and "European institutions [were] unwilling to accept local deviations from their successful norms" (Besters-Dilger, 2009, p. 214). Furthermore, the willingness of political elites to implement reforms was missing.

As was stated above, "Ukrainians tend to value democracy more when it is lacking" (Sydoruk, 2013, p. 6). Therefore, the protest events increased simultaneously to an increasing autocratic political system under Yanukovich (see Diagram 1).

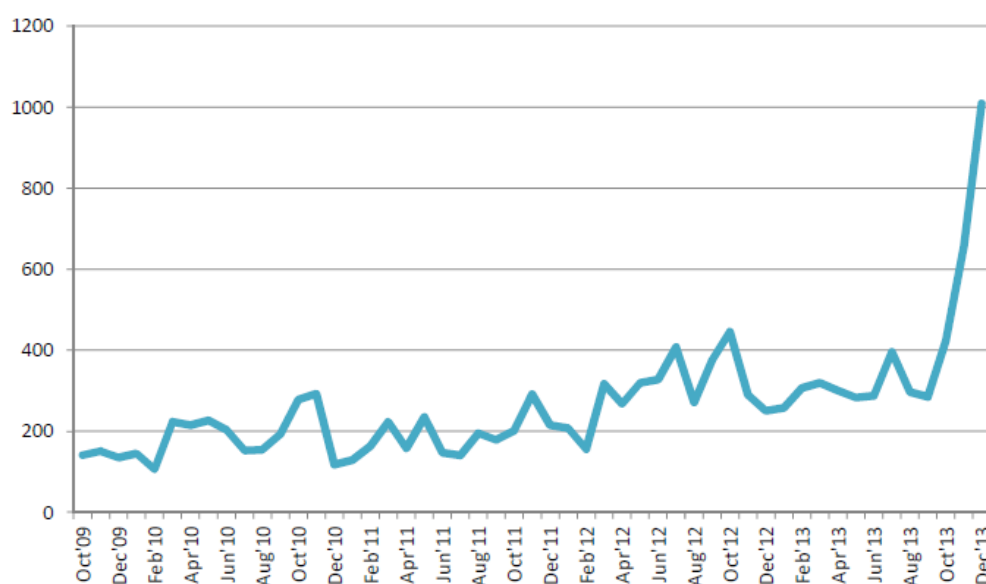


Diagram 1: The Number of Protests monthly October 2009 - December 2013 (CSR, 2013, p.4).

The growing demand for democratic reforms can not only be seen by the increasing number of protest events, but also by the protests issues (see Diagram 2 on the next page). While most of the protests before the Maidan were mainly concerning socio-economic issues, the share of protests concerning ideological, political and social rights<sup>24</sup> increased after (and during) Maidan (CSR, 2013, p. 11).

<sup>24</sup> These interests contained: workers' protests, housing rights, environmental problems, public utilities, public transport, public health, education and others (socio-economic); protests against or for certain politicians/ political parties or the government as a whole (political); dealing with historic and ideological problems, mainly concerning the regional division in Ukraine (ideological); and the protection of civic rights and freedom of speech, protests against police abuse, illegal actions of public servants, corruption etc. (civic rights) (CSR, 2013, p. 42).

	2011		2012		2013		2013 before Maidan (until 20.11)		2013 after Maidan (from 21.11)	
<b>Socioeconomic</b>	1374	60%	1546	43%	2062	43%	1926	56%	136	10%
<b>Ideological</b>	558	25%	858	24%	1740	36%	871	25%	869	62%
<b>Political</b>	564	25%	1249	34%	1727	36%	924	27%	803	58%
<b>Civic rights</b>	391	17%	617	17%	1644	34%	926	27%	718	52%
	<b>2277</b>		<b>3636</b>		<b>4822</b>		<b>3428</b>		<b>1394</b>	

Diagram 2: Protest Issues (CSR, 2013, p. 11).

The (public) demand for democratization has been increasing since 2012, as has the degree of democracy. Therefore, it can be said that domestic legitimacy rose simultaneously to the degree of democracy. Prevalent social norms have increasingly complied with the norms of the EU. Furthermore, the survival strategy of political elites has had an impact on the development of domestic legitimacy. The regime under Yanukovych was unwilling to react to the demands of society in a progressive way, and was unsuccessfully trying to disperse the protesting group by force; it was later overthrown and partially fled the country. The new government positioned itself as European friendly and implemented some important democratic reforms. The question, whether they did so because they actually believed in democratic norms, or to please the electorate and used a survival strategy, remains unanswered. But the pressure from society did at least lead to a new government that, according to President Poroshenko, “[does its] best to help European culture to flourish in Ukraine” (Poroshenko, 2015). This is in compliance to the definition of domestic legitimacy by Börzel/ van Hüllen.

Domestic legitimacy is a crucial factor for external democratization, if certain antecedent conditions exist. In order to have “transformative power” (Solonenko, 2012, p. 3), the EU must be a credible democracy promoter, which encourages and appreciates the civil society and which is perceived as an actor honestly trying to promote democracy. Furthermore, a strong civil society must exist. Börzel/ van Hüllen do not ask for the general impact of the external actions on the degree of statehood, but they assume the EU’s actions to be of importance in order to analyze the relevance of

domestic legitimacy. If assumed that external actions of the EU were a credible and strong factor for political decisions in Ukraine, then domestic legitimacy, combined with a strong civil society, was a necessary condition to increase the degree of democracy. High norm compliance in 2012 and 2014 led to comprehensive changes. Equal norm compliance was missing in 2009; hence, the degree of democracy was decreasing until 2012.

However, even though the general strength of the EUs democracy promotion must be questioned, its external influence cannot be ignored. Without the offer and later denial of the AA, the protests on Maidan had not started. Closer co-operation with the EU, even without a membership perspective, served as an incentive for the political elites to pacify society and to react to their demands.

## 7. Conclusion

As stated in the Treaty of Lisbon, the European Union is a community of shared values. Its values are supposed to be promoted in its neighboring countries through the ENP and the EaP. Promotion of democracy is a highly complex and academically controversial political phenomenon. The impacts, concepts, strategies and instruments of different democracy promoters have not yet been evaluated sufficiently and comprehensively. Constructivist or rationalist approaches offer different independent variables that are supposed to be influential for an increase of democracy in the third state.

Rule compliance, which is the result of effective democracy promotion, can either be explained by cost-benefits calculations (rationalist view) or by a socialization process, in which states are motivated by values and norms to co-operate with the external actor or to overtake its norms (constructivist view). For a rationalist interpretation of the effectiveness of external democratization, incentives for the third states are analyzed. This approach can be useful for explaining rule compliance of states, which were offered a membership in the EU. But as the EaP countries do not have a membership perspective, the incentives are rather small. Therefore, this work used constructivist explanations, such as social learning, lesson drawing, and, as a part of those, legitimacy, to analyze the impact of the EU's democracy promotion on the degree of democracy in Ukraine.

Taking into account that the domestic political structure is influencing the performance and effectiveness of external democratization (Youngs, 2010, pp. 8-10), this work focused on the domestic legitimacy of the EU's democracy promotion. According to Börzel/ van Hüllen, the norms and rules promoted by the EU must comply with the prevalent norms in society. Political elites are interested in winning or keeping power. Their survival strategy will make them co-operative in overtaking European norms and values, if the society is demanding these norms in such a way, that the political elites must otherwise fear a loss of support in elections or even a revolting society.

Regarding the question in **how far the domestic legitimacy of the EU's democracy promotion was influencing the degree of democracy in Ukraine between 2009 and 2014**, the degree of democratization, the support of the EU, the role of the civil society, and the Ukrainians' perception of the EU and of democracy were analyzed in the years 2009, 2012, and 2014. It was assumed that **the higher the domestic legitimacy of the EU's external democracy promotion in the society of a third state is, the higher the degree of democracy will be.**

The political environment in Ukraine was (and is) mostly suffering from corruption, a dependent judiciary, and oligarchy. The degree of democracy worsened in 2012 but after the mass



protests on Maidan in 2014, a new government came to power which, so far, set promising political, economic, and democratic reforms. Low domestic legitimacy between 2009 and 2012 had not increased the degree of democracy. Between 2012 and 2014, however, the prevalence of democratic norms in society led to a change in the actions of the political elites. Pressured by the events on Maidan, they either needed to implement comprehensive reforms or, as Yanukovich did, ignore the protests and suffer from the political consequences. Strong domestic norms led to a change in the political course of Ukraine that was accompanied by comprehensive democratic reforms and the political statement to follow European standards and demands.

Social learning, lesson drawing, and conditionality all played a role for the degree of democracy in Ukraine, but the first two variables were most important. The new government overtook the democratic norms that were demanded by society and by the EU. Furthermore, according to the party programs, it considers the EU's collective identity as worth aspiring to, finds its norms appropriate, and strives to identify with the EU (Razumkov, 2014, p. 39). This conviction, rather than calculation, can be regarded as social learning, even though it is questionable in how far the EU was actually *teaching* these norms. Lesson drawing was also present, for the government reacted to the dissatisfaction in society that "opted for the European values – democracy, the rule of law, respect for human rights and dignity [...]" (Poroshenko, 2015) by overtaking European norms. The pro-European coalition is trying to reform the country by „thinking and acting European“ (Poroshenko, 2015), and is therefore trying to transfer the rules of the EU autonomously and comprehensively. Needless to say, conditionality also played a role, especially for the political elites, for they benefit from the AA and the additional financial support from the EU. Nevertheless, conditionality was not a great factor for the civil society which was mostly driven by democratic norms and values.

It can be stated that high domestic legitimacy between 2012 and 2014 also led to an increase of democracy. Still, it was the leverage of society itself, not the EU's promotion of democratic norms, which had the power to transform. Youngs argument that "change must come from within" (Youngs, 2010, p. 8) is supported in this case. The EU served more as an adequate solution to the protests than it was an active promoter and encourager of democratic values.

Instead of supporting the civil society when it mostly needed it (for example in 2012, when Ukrainians were strongly supporting democratic norms), the EU only reacted to the political actions of the government and punished the country by withdrawing money, instead of encouraging the opposition. While democracy was supported in society, it was not likewise promoted and

communicated on the side of the EU. Agreements and statements were emphasizing democratic values, but a strong and comprehensive promotion has not taken place. Youngs approach, claiming that democracy promotion must be tailored to the domestic political situation in the third country (Youngs, 2010, p. 2), was not followed by the policies of the EU. To say the least, the EU has not reacted to societal, but rather to governmental dynamics, and supported or sanctioned the country based on the behavior of the political elites. The missing co-operation with the Ukrainian civil society made Ukrainians perceive the EU as an economic partner and a guarantor for financial prosperity and socio-economic benefits, rather than a reliable actor in promoting, supporting, and eventually reaching democratic change in the country. However, slow developments in valuing the civil society serious have started in 2011 after the ENP was renewed.

To summarize, domestic legitimacy of external actions is necessary to increase the degree of democracy, but only if certain antecedent conditions exist. These additional conditions are a strong and well organized civil society, as well as a strong and credible external democracy promoter, which is able to communicate its values in society and in front of the national government. This is in compliance with the fact that democratization is a complex process, which consists of many influential independent variables, as was stated above. If the societal actors which promote and demand democratic values are capable, credible, and strong, the compliance of values between the external promoter and the civil society influences the pace and degree of democratization. The mechanism of external democratization through domestic legitimacy was working, but the EU was rather a suitable solution than an active promoter. The external actor must be strong in its support for democracy to actually have an impact on domestic politics and the civil society must be encouraged and strengthened to formulate democratic demands.

### 7.1. Recommendations for Practice of the EU

In order for external democratization to be effective, the EU must appear as a strong and credible promoter of democracy and the civil society must comply with the promoted norms and be strong enough to put pressure on the political elites. Hence, the EU must concentrate on projects and support for specific democratic demands of the civil society. According to the EII, “[the] development in the EaP countries confirm that the EU’s ability to trigger reforms crucially depends on domestic factors” (EII, 2013, p. 8). For “[t]he EU cannot impose its agenda from outside” (EII, 2014, p. 9), it must support the reform-minded actors in civil society and politics “by consistently engaging with them and limiting the space for maneuver for the spoilers” (p. 9). The EU’s focus on political elites and the government through its ENP did not lead to sufficient changes in the degree of democracy. Political elites only partially co-operated with the EU and implemented some demanded laws in

order to benefit from external donations, stronger economic co-operation, or from the law itself to weaken political opponents. The EU must also more sufficiently communicate its values through the media or other communication platforms. A membership perspective must not be the only strong incentive that the EU can offer, for the prospect of further co-operation through the AA did already lead to changes in the political government. Still, incentives play a role for political elites and must therefore be negotiated. Negotiations should not only take place with the political elites; instead the EU must also take CSOs more into consideration as a strong negotiating partner. Therefore, CSOs must be financially and advisory empowered.

## 7.2. Limits of the Study and Recommendations for Further Research

This thesis contributes to the research of understanding the effectiveness of the EU's democracy promotion in Ukraine. Still, it is taken into account that not only one independent variable (domestic legitimacy) influences the degree of democracy exclusively, but that its development depends on several independent variables. Taking the historical, social, political, and economic preconditions into account, domestic legitimacy can be seen as necessary in Ukraine. However, these results might change in other contexts. While Georgia or Moldova have a similar relationship to the EU, other countries from the ENP, such as Belarus or even further countries like Morocco or Israel carry a variety of influencing and intervening variables, concerning for example the cultural, religious, or historical background. Further research of the impact of domestic legitimacy on the effectiveness of the EU's democracy promotion through the ENP in these countries would be an important contribution to proof the transferability of the results of this thesis and the general impact of the EU.

Furthermore, actions from the EU as well as from political Ukrainian elites are not strictly based on a moral obligation to support democratic values, but actors are also influenced by cost-benefit calculations. Therefore, neither a purely constructivist, nor realist view can be used for explaining democracy promotion. However, focusing on the role and importance of society and its norms and values leads to profound recommendations for the external democratization actions of the EU. This way, options can be demonstrated, which are possible for the EU to exercise in order to increase the effectiveness of its democracy promotion. Still, a more realist examination of the role of incentives would also be revealing. So far, the impact of membership as the greatest incentive was analyzed in the literature. However, the example of Ukraine shows that also less powerful incentives, such as an AA, can become relevant for rule compliance between the EU and the third country. Examining the meaning of closer political and social co-operation, even without a membership perspective, would contribute to the knowledge of the possibilities and instruments of the EU.

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## 9. Statutory Declaration

I declare that I have authored this thesis independently, that I have not used other than the declared sources / resources, and that I have explicitly marked all material which has been quoted either literally or by content from the used sources.

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Münster, the 13<sup>th</sup> of November 2015