

EU DEMOCRACY PROMOTION THROUGH CONDITIONALITY IN ITS NEIGHBOURHOOD: THE TEMPTATION OF MEMBERSHIP PERSPECTIVE OR FLEXIBLE INTEGRATION?

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Abstract

This paper examines the EU's usage of conditionality for democracy promotion within the European Neighbourhood Policy and its conditions, possibilities and limitations. In doing so, I will first develop a theoretical framework for analysing mechanisms of democracy promotion in general and conditionality as a state-centred, rational-choice mechanism in particular. I will show that, apart from the attractiveness of the incentives, there are other variables crucial for a successful use of conditionality. Furthermore, conditionality might be used as a promising strategy for the formal implementation of democratic institutions. However, in completing the consolidation of democracy, conditionality is highly limited. The empirical part of the paper will focus on EU democracy promotion in Ukraine and the incentives the EU offers to Ukraine instead of a membership perspective. With the help of this case study it will be discussed whether these elements of flexible integration are suitable for promoting democracy. Examples of such incentives are a visa-free regime, a new enhanced agreement, or a free trade area.

***Keywords:** Democracy promotion; democratization; EU External Action; Ukraine; European Neighbourhood Policy*

Introduction

The prospect of European Union (EU) membership is often considered the most successful instrument for the promotion of democracy in post-communist countries. We can observe that all post-communist members of the EU are now more or less consolidated democracies, whilst all post-communist countries outside the EU are still on a path between open authoritarianism and hybrid regimes. As the democratisation of non-Member States is both a normative and strategic aim of the EU, democracy promotion is a main element of its foreign policy. It is reflected in its relations with third countries in general,¹ particularly through the European Neighbourhood Policy.² The

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¹ European Commission, *Communication from the Commission: The European Union's Role in Promoting Human Rights and Democratisation in Third Countries, COM(2001) 252 final* (8 May 2001), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0252:FIN:EN:PDF> (accessed 10 April 2010).

European Neighbourhood Policy (ENP) was designed in 2003 to “prevent the emergence of new dividing lines between the enlarged EU and its neighbours and to offer them the chance to participate in various EU activities, through greater political, security, economic and cultural co-operation.”³ At the same time, the prospect of membership for countries is restricted by the EU’s limited capacity for further enlargement due to its fear of internal efficiency problems in an enlarged Union. Thus, policymakers have to think about alternative integration models, keeping in mind the normative and strategic aim of the EU to promote democracy and ensure stability, peace and prosperity in third countries, especially as countries like Ukraine, Georgia or Moldova demand a membership perspective and have, according to Art. 49 TEU, a formal right to apply for membership.

Conditionality serves in this context both as a promising tool of the EU to promote democracy and a theoretical framework to explain causalities between the prospect of EU membership and a successful democratisation process in the target country.⁴ As conditionality is based on a “carrot and stick” mechanism, the membership perspective is assumed to be the only attractive “stick”. Following this assumption, critics argue that the European Neighbourhood Policy cannot provide attractive incentives without offering a membership perspective. Thus, the ENP fails to exert a real influence on the democratisation process through conditionality.⁵ Even though the membership prospect might be a promising instrument to promote democracy in external countries, the underlying causal mechanisms have to be identified. Questioning this causality assumption this study seeks to discuss the following question: is conditionality a promising strategy of the European Union to promote democracy in post-communist neighbouring countries without prospects for membership?

In doing so, this paper has two basic lines of argumentation: First, it will show that, apart from the attractiveness of the incentives, there are other variables crucial for a successful use of conditionality. As Schimmelfennig argues, the effectiveness of political conditionality depends on three core conditions: the attractiveness of the incentives, the size of domestic adoption costs, and the credibility of political conditionality⁶. Following this theoretical approach, it will be argued that

² European Commission, *Communication from the Commission: Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours*, COM(2003) 104 final (11 March 2003), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0104:FIN:EN:PDF> (accessed 10 April 2010); and European Commission, *Communication from the Commission: European Neighbourhood Policy Strategy*, COM(2004) 373 final (12 May 2004), available at http://ec.europa.eu/world/enp/pdf/strategy/strategy_paper_en.pdf (accessed 10 April 2010).

³ European Commission, *Communication from the Commission: European Neighbourhood Policy Strategy*, COM(2004) 373 final. The European Neighbourhood Policy applies to the EU's immediate neighbours (by land or sea): Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine.

⁴ Paul J. Kubicek, *The European Union and Democratization* (London: Routledge, 2003); Marianne Kneuer, *Demokratisierung durch die EU: Süd- und Ostmitteleuropa im Vergleich* [Democratization and the EU: Comparing South- and Eastern Europe] (Wiesbaden: Verlag für Sozialwissenschaften, 2007); Geoffrey Pridham, ed., *Building Democracy? The International Dimension of Democratization in Eastern Europe*, 2. ed. (London: Leicester University Press, 1997); and Frank Schimmelfennig and Ulrich Sedelmeier, eds., *The Europeanization of Central and Eastern Europe* (Ithaca, NY: Cornell University Press, 2005).

⁵ Iris Kempe, “Zwischen Anspruch und Realität: Die Europäische Nachbarschaftspolitik” [Between Vision and Reality: The European Neighbourhood Policy], *Osteuropa* 57:2-3 (2007): 57-68; and Clara M. O’Donnell and Richard G. Whitman, “Das Phantom Zuckerbrot. Die Konstruktionsfehler der ENP” [The phantom of “carrots and sticks”. Structural Deficits of the ENP], *Osteuropa* 57: 2-3(2007): 95-104.

⁶ Frank Schimmelfennig, “The EU: Promoting Liberal-Democracy through Membership Conditionality”, In Trine Flockhart, ed., *Socializing Democratic Norms: The Role of International Organizations for the Construction of Europe* (Basingstoke: Palgrave Macmillan, 2005), 106-126.

that there might be attractive incentives other than the prospect of membership. These alternative incentives are trade agreements (possibly leading to a free trade area), visa-free regimes, special modes of cooperation in certain policy areas or security cooperation enhanced in association or partnership agreements. These elements of cooperation might lead to a high level of integration between the EU and third countries, but do not need to result in full membership. Therefore, these elements can be named as “modes of flexible integration”. Following this, the study will further sketch out this terminology and concept and posit, for the case of Ukraine, its chances and limitations.

The second line of argumentation relates to the mode of action of conditionality itself. In this respect, this study will employ transitions theory to elaborate further conditions under which conditionality might work to promote democracy, which has not been taken into consideration so far. Conditionality might be used as a promising strategy regarding the formal implementation of democratic institutions, but not to complete the consolidation of democracy.

The paper is structured along these lines of argumentation. First, it will provide a theoretical approach regarding conditionality as a tool for EU democracy promotion and discuss the action mode of conditionality. In the empirical part, a case study on Ukraine will outline the limits and chances of conditionality without the incentive of a membership perspective. On this basis, a concept of flexible integration will be suggested, instead of a membership perspective to offer neighbouring countries real, attractive and credible incentives.

A Theoretical Approach towards EU Democracy Promotion and Conditionality

Theorizing External Factors of Democratisation

To assess whether conditionality is a promising strategy to promote democracy, one first has to identify possible causal mechanisms between EU policy to promote democracy and the democratisation process in target countries. Second, one has to give evidence for the EU's influence. EU democracy promotion in its external relations is a growing research area and the impact of EU enlargement on the democratisation process in new member states was extensively analysed.⁷ More recent studies focus on EU democracy promotion within the European Neighbourhood Policy, a policy explicitly withholding membership perspective. However, a generally accepted explanatory concept for the analysis of democracy promotion giving evidence for the influence of external actors is still missing.

The possible tools and instruments of democracy promotion are various: consultancy, political dialogue and moral support, financial aid, loans or economic cooperation, peace keeping interventions, election observation, and the threat of financial or moral sanctions in case of non-compliance, to name a few.⁸ According to the used instrument, the “sender-recipient relationship”

⁷ Antoaneta Dimitrova and Geoffrey Pridham, “International Actors and Democracy Promotion in Central and Eastern Europe: The Integration Model and its Limits”, *Democratization* 11:5 (2004): 91-112; Schimmelfennig and Sedelmeier, *The Europeanization of Central and Eastern Europe*; Ulrich Sedelmeier, “Europeanization in new member and candidate states”, *Living Reviews in European Governance* 1:3(2006), available at <http://europeangovernance.livingreviews.org/Articles/lreg-2006-3/download/lreg-2006-3BW.pdf> (accessed 10 April 2010).

⁸ Eberhard Sandschneider, *Externe Demokratieförderung: Theoretische und praktische Aspekte der Außenunterstützung von Transformationsprozessen* [Theoretical and Practical Aspects of External Support of Transition Processes], (2003), available at http://www.cap.lmu.de/download/2003/2003_sandschneider.pdf (accessed 10 February 2010).

in democracy promotion differs: on the side of the recipient, it is the democratisation process, which can be divided into actors and phases of the democratisation process. On the side of the sender are external actors, which undertake certain actions to promote democracy.⁹ These actors can be divided into governmental or state actors (national governments, international or regional organisations like the EU, the Council of Europe, the OSCE or the UN) and non-state actors (e.g. non-governmental organisations (NGOs, foundations, interest groups). Depending on the actors involved and actor constellations (state-to-state, society-to-society, state-to-society) different mechanisms of democracy promotion are in place. Every instrument depends on different modes of action, reaches different actors and stages of the democratisation process and, consequently, needs different theoretical basis and analytical tools on which to conduct research.

The mere coincidence between EU policy and the democratisation process in a country does not provide evidence for influence. The causal links and mechanisms between the external EU policy and the domestic democratisation process have to be identified. To deepen the insight of these mechanisms and its interaction with the democratisation process, we can learn much from theories of international relations (IR), which have to be cross-fertilized with theories of democratisation and transition. Results from the field of democratisation and transitional studies can be used to disaggregate the democratisation process and split it into different stages, to operationalize the term “democratisation” (see part 0). Theories of international relations give us insight into possible interactions between external influences and internal development, in general. Regarding democracy promotion, they seek to answer the question of how external influences can exert leverage on the democratisation process. Two main schools of thought in IR theory, the realist and the constructivist models, also serve as the two main theoretical models behind studies of democracy promotion: the realist model conceptualized democracy promotion as a state-centred, rational process of inter-state bargaining about interests and power on the basis of cost-benefit calculations of the involved actors. The influence on the democratisation process can be top-down. The constructivist strand views international or transnational cooperation on the basis of socialisation processes, mutual learning and convergence of democratic ideas and norms. This model sees the role of an external actor in offering social exchange and bottom-up initiatives, for example, by supporting civil society or local administration. In the literature on democracy promotion, conditionality and convergence are named as the main causal mechanisms¹⁰. The first is related to the realist school and an external incentive model, whereas convergence is based on social, indirect processes of social learning and diffusion. This paper focuses on the membership prospect as an incentive for democracy promotion through conditionality. Thus, the consequences of a missing membership prospect for democracy promotion through convergence are not taken into consideration in this incentive-based analysis.

However, in the ongoing debate a link to transitional theory is missing. It should be argued – building on the second line of argumentation in this study – that the promise of conditionality as a strategy to promote democracy does not depend only on the conditions derived from a cost-benefit analysis. One has to take into consideration the stage and actors of the democratisation process to estimate the chances of success of a certain strategy, which asks for combining insights from IR and transitions theory.

⁹ The external context as an additional external influence on democratisation is not taken into account in this paper. The external context concerns the international scenery like power constellations, geographical circumstances or political “events” like wars, revolutions etc.

¹⁰ Schimmelfennig, “The EU: Promoting Liberal-Democracy through Membership Conditionality”; and Laurence Whitehead, *The International Dimension of Democratization: Europe and the Americas*, 2. ed. (Oxford: Oxford University Press, 2001).

How Does Conditionality Work?

Conditionality can be defined as an agreement between two actors, in which actor 1 offers a reward to actor 2.¹¹ This reward is granted if actor 2 fulfils certain conditions. In the case the conditions are not met by actor 2 the reward is simply withheld (*positive conditionality*) or punishment follows (*negative conditionality*). To exert conditionality as a reward-based policy between two actors, asymmetric negotiation power has to be in place: actor 1 has to be able to offer attractive incentives which actor 2 wants to have and cannot achieve easily otherwise.

When analysing social interaction from an incentives- and interest-based position, conditionality is first of all understood as a mode of action. Additionally, it can be used purposely as a political strategy to exert a reward-based policy between two political actors and to institutionalize asymmetric interaction. Conditionality can be used to promote democracy by combining attractive rewards with certain conditions of democratic development. In this case, this study will adopt the term “democratic conditionality”.

Hence, conditionality as a political strategy depends on a number of basic conditions. Two actors have to be in place with certain interests. These actors are state governments or governmental international/regional organisations. They have to be capable of acting in general, plus acting rationally on a reliable cost-benefit calculation. The incentives offered by one actor can be either social (national and international prestige and appreciation) or material (financial aid or trade liberalisation), but they have to be of certain attractiveness for actor 2. Following, the main characteristics of conditionality are outlined:

- Conditionality is a top-down approach acting in a state-to-state constellation.
- Conditionality works on a formal, direct, short-term level.
- Conditionality depends on clear conditions; compliance with these conditions can be observed and measured.

Under Which Conditions is Conditionality a Promising Strategy for Democracy Promotion?

Apart from the attractiveness of the incentives, there are other variables that are crucial for a successful use of conditionality as a political strategy. These conditions will be derived from IR-theory and from transitional theory. Following the first line of argumentation, the tested hypotheses of Schimmelfennig/Sedelmeier and Kubicek will be presented, who assume a cost-benefit calculation of the actors involved.¹² In this context, six conditions have to be taken into account when assessing the promise of conditionality to promote democracy:

1. ***Attractive incentive.*** The incentives offered by the external actor have to be attractive for the target country or, as Kubicek stated, “carrots must constitute a sizeable stick”.¹³ These

¹¹ Jeffrey T. Checkel, “Compliance and Conditionality,” *ARENA Working Paper Series* 18 (2000), available at http://www.arena.uio.no/publications/wp00_18.htm (accessed 10 February 2010).

¹² Schimmelfennig and Sedelmeier, *The Europeanization of Central and Eastern Europe*; and Kubicek, *The European Union and Democratization*.

¹³ Kubicek, *The European Union and Democratization*, 17.

rewards can be material (trade liberalisation, financial assistance, military protection) or social, such as international recognition or public praise.¹⁴

2. **Credibility.** The “carrots and sticks” offered must be real.¹⁵ The external promoter must be able and willing to realise and withhold the incentive in accordance to democratic performance of the target country. Credibility needs clear, measurable criteria and evaluation mechanisms including time-frames to provide a credible, comprehensible procedure¹⁶.
3. **Low adoption costs.** The merit gained from the incentives has to be higher than the adoption costs of fulfilling the conditions. The adoption costs for a country increase with alternative incentives (see condition 4) and interests of important stakeholders (see condition 6).
4. **Lack of alternatives.** The lack of alternatives for the target country relates to the attractiveness of the incentives offered. When the target country has no alternative possibility to gain the desired incentive, then the attractiveness of cooperation or integration increases.¹⁷ EU conditionality would not be effective if the target government had other sources offering comparable benefits at lower adjustment costs.¹⁸
5. **Asymmetry in negotiations in favour of the EU.** Asymmetry between the EU and the target country results from a lack of alternatives for the target country. But at the same time it demands from EU side no serious interests in the target country. Economic and political power between the target country and the EU should be asymmetric in favour of the latter, meaning that target is more dependent on the EU than the EU on the target.¹⁹
6. **Interests of important stakeholders and veto players should not be harmed.** If the incentives offered by the EU can benefit important stakeholders, the adoption costs for the government decrease. If the EU “can find domestic allies, who in turn can apply pressure to the existing authorities”,²⁰ EU conditionality is likely to be successful; the other way around, if democratisation is against the favour of important veto players, the likelihood of compliance is weakened due to the higher adoption costs for the target government.

These assumptions are based on a rational-choice model of action and an actor-orientated analysis. From this perspective, actors take their decision to comply with the norms set by the EU following a cost-benefit analysis. The above conditions developed and tested by Schimmelfennig / Sedelmaier and additionally by Kubicek, provide us with useful insights into the possible impact of conditionality in democracy promotion. Unfortunately, a link to transitional theory is still missing.

¹⁴ Schimmelfennig, “Europeanization beyond Europe”, *Living Reviews in European Governance* 4:3(2009), available at http://www.astrid-online.it/Riforma-de/Studi-e-ri/Archivio-25/Shommelfenning_LivRev-Eur-Gov_3_2009.pdf (accessed 10 April 2010).

¹⁵ Kubicek, *The European Union and Democratization*, 18.

¹⁶ Schimmelfennig and Sedelmeier, *The Europeanization of Central and Eastern Europe*, 15.

¹⁷ Kubicek, *The European Union and Democratization*, 18.

¹⁸ Schimmelfennig and Sedelmeier, *The Europeanization of Central and Eastern Europe*.

¹⁹ Jünemann and Knodt, *European External Democracy Promotion* (Baden-Baden: Nomos Verlag, 2007); and Andrew Moravcsik and Milada A. Vachudova, “National Interest, State Power, and EU Enlargement”, *East European Politics & Societies* 17:1(2003): 42-57.

²⁰ Kubicek, *The European Union and Democratization*, 18.

Conditionality and Transitional Theory

The second line of argumentation posts that one has to include the stage of the democratisation process as a condition to estimate the promise of conditionality. The question to address is: at which stage of the democratisation process is conditionality applied best and which democratic deficits can be best aimed at by conditionality?

Pridham noted that the qualitative difference between transition phase and consolidation phase “points to different kinds of external impacts, which these being longer-term and conceivably deeper in the latter case.”²¹ However, he does not provide a systematic theoretical model to analyse these differences. Results from the field of democratisation and transitional studies can be used to disaggregate the democratisation process and split it into different stages, to operationalize the term “democratisation”. From transitions studies we learn that the democratisation process can be divided into three stages: liberalisation, transition and consolidation.²² More concretely, five “arenas of democratisation” can be defined, each dominated by different actors and processes – they identify the area of political society, civil society, bureaucracy, rule of law/functioning judiciary and economic society.²³

As conditionality is a top-down approach in state-to-state constellations (see p. 4) it can only cause changes at the governmental level; the democratisation process can only be influenced top-down, by governmental elites. Important actors of a democratisation process, namely civil society, economic elites, political parties, the administration or judiciary on local or regional levels, cannot be reached through conditionality. In contrast to convergence, conditionality works on formal procedures and negotiations: conditionality depends on clear conditions where compliance can be controlled and measured; the conditions and rewards have to be formulated clearly in intergovernmental agreements and they have to be measurable to evaluate compliance transparently. From these logical assumptions, consequences for democracy promotion through conditionality can be derived: the institutionalisation of formal democratic procedures, of a democratic constitution or the codification of human rights or free and fair election procedures can be formulated as clear conditions. Accordingly, to promote these elements of democracy, conditionality can be a promising strategy. In contrast, elements of democratic consolidation as the spread of democratic norms, a civil society, the establishment of a party system and its root in society or a functioning judiciary accompanied by a judiciary culture can only be marginally influenced through conditionality: the legal framework can be established through the threat of conditionality but not compliance and real implementation. The promises of conditionality for the arenas of democratisation by Linz and Stepan will be discussed in the following:²⁴

- **Civil society.** The EU as an external actor can demand to establish the legal framework for a functioning civil society. But civil society itself lies beyond the scope of governmental

²¹ Geoffrey Pridham, *The Dynamics of Democratization: A Comparative Approach* (London: Continuum, 2000), 296.

²² Guillermo O’Donnell, Philippe C. Schmitter and Laurence Whitehead, eds., *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore and London: John Hopkins University Press, 1986); Juan Linz and Alfred Stepan, *Problems of democratic transition and consolidation: Southern Europe, South America and post-communist Europe* (Baltimore and London: John Hopkins University Press, 1996); Geoffrey Pridham, ed., *Prospects for democratic consolidation in East-Central Europe* (Manchester: Manchester University Press, 2001), 16-17; and Wolfgang Merkel, “Embedded and Defective Democracy”, *Democratization* 11:5(2004): 33-58.

²³ Linz and Stepan, *Problems of democratic transition and consolidation: Southern Europe, South America and post-communist Europe*.

²⁴ Ibid.

influence as a civil society is per definition non-governmental. The legal framework is crucial for the establishment of a civil society, but more important is the real constitution which can hardly be measured and thus cannot be formulated as a clear condition.

- **Political society.** The same applies for the “political society” (party system, opposition); an external actor like the EU can only demand to establish a supporting, positive legal framework.
- **Free and fair elections.** In contrast, the performance of free and fair elections can be influenced through conditionality. Election procedures are first and foremost based on an election law which is a formal process. The democratic conduct of free and fair elections is measurable as the reports of the Organisation for Security and Cooperation (OSCE) in Europe show.²⁵
- **Rule of law and bureaucracy.** Through conditionality an external actor can demand formal implementation of certain norms but a culture of rule of law and the compliance on local level can hardly be influenced through conditionality. The same applies for bureaucracy or the fight against corruption. A mentality change of state officials cannot be reached by a state-centred top-down approach as conditionality.

As the analysis shows, not all elements relevant for democratic development can be tackled at with a state-centred action mode such as conditionality. In the field of institution-building conditionality seems to be a quite suitable instrument, but in the field of consolidation and in the entrenchment of democratic culture and behaviour, including a civil society, conditionality fails to enjoy certain influence, simply due to its mode of action. Regarding the leading question whether conditionality is a promising strategy to promote democracy it is clear that on a theoretical level, conditionality is a promising strategy to promote the formal institutionalisation of democracy. However, conditionality is not a promising strategy to complete the consolidation of democracy. Following from this, if certain criteria of democracy are not met, other mechanisms than conditionality might be more effective in promoting democracy – regardless of whether the EU offers a membership perspective or not.

Case Study on Ukraine: The Temptation of Membership Perspective or Flexible Integration

This paper will now focus on the incentives the EU offers to Ukraine instead of a membership perspective. It will be discussed whether these incentives are suitable for a successful promotion of democracy. Ukraine is an appropriate case study for the following reasons: after the eastward enlargement of the European Union, Ukraine became a neighbouring state of the EU of geographical, geo-strategic and economic importance. While democracy is far from being fully realized, Ukraine represents a comparatively hopeful development towards democratic standards in some areas. Furthermore, a EU membership perspective for Ukraine is – at least theoretically – far from being absurd, taking into account that countries like Turkey, Serbia or Albania have a concrete

²⁵ OSCE/ODIHR, *Election Observation Mission Report: Ukraine Parliamentary Election of 26 March 2006* (23 June 2006), available at http://www.osce.org/documents/odihr/2006/06/19631_en.pdf (accessed 10 April 2010); and OSCE/ODIHR (2005), *Election Observation Mission Final Report: Ukraine Presidential Election of 31 October, 21 November and 26 December 2004* (11 May 2005), available at http://www.osce.org/documents/odihr/2005/05/14224_en.pdf (accessed 10 April 2010).

membership perspective and that Art. 49 TEU provides every European state a formal right for application. Additionally, Ukraine has made demands for membership and exerts constant pressure on the EU.²⁶

Nevertheless, Ukraine is only a target country within the European Neighbourhood Policy and bilateral relations are based on a Partnership and Cooperation Agreement (PCA).²⁷ As the EU is not willing to offer membership yet, it is a main challenge to design a suitable alternative policy towards Ukraine. After a short overview about the democratic development and EU-Ukraine relations the conditions derived in part 0 will be employed to discuss the prospect of the mechanism of conditionality for EU democracy promotion in Ukraine.

The Democratic Development in Ukraine

Ukraine cannot be classified as a consolidated democracy. Independence from the Soviet Union and the comparatively late adoption of a post-Soviet, formal-democratic constitution were the first steps to democracy. But the continuity of old elites and formal and informal institutions hampered Ukraine's democratic development from the very beginning of the transformation process.²⁸ The reports of "Nations in Transit" indicate continuing shortcomings in the fields of electoral procedures, civil society, the independence of the media, democratic governance, an independent judiciary, and combating corruption.²⁹

The Orange Revolution after the presidential elections in the winter of 2004/05 was a signal of the Ukrainian citizens' and civil society's movements towards democracy.³⁰ After serious shortcomings in the election process, in favour of candidate Viktor Yanukovich, citizens demonstrated persistently for the elections to be repeated. In the rerun, the reform-oriented candidate, Viktor Yushchenko, won and was elected as president. The following parliamentary elections in March 2006 were framed as a positive litmus test for the prospect of democratic reform in Ukraine after the Orange Revolution. The elections were conducted in a democratic way, but the coalition-building that followed led to Viktor Yanukovich's election as prime minister. Only a few months later, at the beginning of 2007, the coalition failed to work effectively. President Yushchenko dissolved parliament in a democratically and legally dubious manner and new elections took place in September 2007. Again, the elections were conducted democratically and a new government under Yulia Tymoshenko came to power. Recent political developments demonstrate that the consolidation of genuine democracy is far from being realized. However, the country's liberalisation continues at a constant level. Freedom House indicators show that the main democratic improvements in Ukraine after the Orange Revolution are in the fields of democratic elections, freedom of the media, and civil society; slight improvements can be identified in the area of national government. However, areas like corruption, local government or rule of law failed to improve after the Orange Revolution.³¹ In the next section it remains to discuss whether the outlined democratic improvements from 2004 onwards can be traced back to the influence of the EU.

²⁶ Georgia is the only country among the ENP providing a similar case design as Ukraine.

²⁷ European Communities and Ukraine, Partnership and Cooperation Agreement (1998), available at <http://www.delukr.ec.europa.eu/en/Data/pca-eng.pdf> (accessed 10 April 2010).

²⁸ Paul D'Anieri, *Understanding Ukrainian Politics: Power, Politics, and Institutional Design* (Armonk, NY: Sharpe, 2007).

²⁹ Freedom House, *Nations in Transit: Country Report Ukraine* (2006), available at <http://www.freedomhouse.org/template.cfm?page=47&nit=409&year=2006> (accessed 5 April 2010).

³⁰ Anders Aslund and Michael McFaul, eds., *Revolution in Orange: The Origins of Ukraine's Democratic Breakthrough* (Washington D.C.: Carnegie Endowment for International Peace, 2006).

³¹ Freedom House, *Nations in Transit: Country Report Ukraine, 2006*.

EU-Ukraine Relations and the Use of Democratic Conditionality

Official relations between the EU and Ukraine are based on bilateral agreements which could potentially exert conditionality. The main bilateral agreement and legal basis for cooperation is the Partnership and Cooperation Agreement (PCA), which came into force in 1998. The Action Plan (AP), which came into force after the Orange Revolution in February 2005, is the most relevant document to identify possible incentives and conditions for recent times. The PCA will be replaced by a New Enhanced Agreement, on which the EU started negotiations with Ukraine in March 2007.

Can democratic changes from 2004 up to now be traced back to EU policy? Does the EU apply democratic conditionality in EU-Ukrainian relations? Evidence shows that after the Orange Revolution, the EU used conditionality to promote democracy in Ukraine: before the Orange Revolution, incentives and conditions were formulated very vaguely and were not clearly related to each other, as an analysis of the Action Plan shows.³² Some incentives are mentioned, as participation in the EU's internal market, possible negotiations for a Free Trade Agreement, financial assistance, security cooperation, support in the implementation of the *acquis* or participation in EU's cultural, academic and social exchange programmes.³³ In return, the EU prioritizes a democratic conduct of the presidential and parliamentary elections (2004, 2006), the settlement of the Transdnistriean conflict, an improvement of the conditions for foreign investments, and the preparation for WTO membership, an agreement on readmission and the use of nuclear energy.³⁴ However, in the Action Plan, the conditions were defined so broadly and vaguely that Ukrainian governments might not know precisely which changes are required of them and which measures would satisfy EU conditions.

Directly after the Orange Revolution, the EU (precisely the General Affairs and External Relations Council) clarified the incentives and conditions and linked them to each other in the *ad hoc* offered 10-point-plan to Ukraine.³⁵ In this document, the democratic improvements are explicitly named as the motivation to "enhance and concretise the incentives: "[the] new commitment to democracy and reforms opened new prospects for EU-Ukraine relationship."³⁶ Further: "As Ukraine makes genuine progress in carrying out internal reforms and adopting European standards, relation between the EU and Ukraine will become deeper and stronger." Thus, an ex-post democratic conditionality is in place, albeit a membership perspective was not under consideration.

The second important step towards democracy was the democratic conduct of the parliamentary elections in March 2006. After the elections the EU realized some of the announced incentives. Following this pattern of democratic conditionality, the EU enhanced the incentives after the third important step, the forming of a government (August 2006). Negotiations on a New Enhanced Agreement were launched in October 2006, while in March 2007 the negotiations officially started. The establishment of a free trade area and the negotiation on a Free Trade Agreement will be launched, too. Additionally, an agreement for visa facilitation was signed in October 2006, further

³² EU-Ukraine Cooperation Council, *EU-Ukraine Action Plan* (2005), 1, available at <http://www.delukr.ec.europa.eu/files/Action%20Plan%20Text-final-website.pdf> (accessed 10 April 2010).

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ Council of Ministers, *General Affairs and External Relations Council Meeting: Conclusions on Ukraine, Press Release 6420/05* (21 February 2005), available at http://ec.europa.eu/comm/external_relations/gac/date/2005/02_210205_er.pdf#ukraine (accessed 10 April 2010).

³⁶ *Ibid.*

negotiations on visa facilitation will take place.³⁷ As this study has clearly identified by process-tracing and analysing the relevant documents (agreements, EU statements and press releases), there was a set of incentives offered by the EU which became more attractive with an improvement of democracy. The incentives were already on the table before the Orange Revolution. After the Orange Revolution significant changes can be observed in the speed and the political will of realization. Every EU statement maintains that the democratic conduct of the parliamentary elections (in March 2006 and September 2007) was a basic pre-condition for any further cooperation. The rhetoric provides consistency in real EU action – after the democratic conduct of the parliamentary elections in 2006 the main incentives were realized. If the election had suffered serious shortcomings, the EU would not have started negotiations on a New Enhanced Agreement or visa facilitation.³⁸

Despite granting some incentives until the end of 2006, Ukraine's ultimate aims still remain open. It is not clear to which mode of integration the launched negotiations will lead – the negotiations on a New Enhanced Agreement might lead to an Association Agreement (Ukraine's ultimate aim) but might also bring only slight changes in bilateral cooperation. The same applies for the launched negotiations on a Free Trade Agreement: it might lead to a free trade area between the EU and Ukraine but could also be on a much lower level of cooperation. The visa facilitations are an improvement for Ukraine, but at the same time far from the ultimate aim: a visa free regime, like Ukraine offers to EU-citizens. The open question is whether these incentives are suitable to support democratic development through conditionality. Are the granted incentives – named *elements of flexible integration* here – really less attractive to Ukraine than membership prospects?

Elements of Flexible Integration vs. Membership Perspective – the Ukrainian Case

It now remains to conduct an assessment of the granted incentives and to distinguish it from the missing incentive of a membership perspective. The conditions about the use of conditionality have to be in place, to identify a potential influence of the EU by these incentives: the more conditions in place for a certain incentive to be successful, the higher the potential leverage of conditionality. An analytical assessment of the *potential* influence cannot give valid information in the *real* influence the EU has or had on Ukraine. As the assessment of *real* influence is a methodological challenge in social sciences, it may help to provide an analytical framework that allows the assessment of the existence of conducive context conditions. The following table (1) shows the results of an examination of relevant EU incentives and conditions about its potential efficiency. A condition is given (+), not given (-) or the assessment is mixed (+/-).

³⁷ Jakub Boratynski et al., *Questionable Achievement: EC-Ukraine Visa Facilitation Agreement* (Warsaw and Kiev: Stefan Batory Foundation, 2006), available at <http://www.batory.org.pl/doc/ec-ukraine-visa-facilitation-agreement.pdf> (accessed 10 April 2010).

³⁸ This confirms a high representative of the Delegation of the European Commission in Kiev in a personal interview (conducted on 05.09.06).

Table 1– Possible Interplay of Incentives and Conditions EU-Ukraine

<i>Conditions</i> <i>Incentives</i>	Attractive Incentive	Low Costs to fulfil the Conditions	Lack of Alternatives for Target Country	Asymmetric Negotiations in favour of the EU	Interest of Stakeholder	Credibility
Free Trade Agreement/ Free Trade Area	+	-	-/+	-/+	+	+
New Enhanced Agreement	+	-/+	-/+	+	(?)	+
Visa Facilitation/ Visa Free Regime	+	-/+	+	+	-/+	+
Membership Perspective	+	-	-/+	-/+	-	-

Note: (+) = condition given; (-) = condition not given; (-/+) = mixed; (?) = no estimation available

As the table shows, a granted membership prospect does not provide a guarantee for successful democratisation in the target country. Taking the rational-choice base of conditionality seriously, one has to state that the membership perspective is not a panacea for successful democracy promotion through conditionality, as the stated conditions are by the majority not in place, respectively the result is mixed.

Free trade agreement/Free trade area. A free trade agreement might lead to a free trade area between the EU and Ukraine. As a free trade area opens the EU internal market for Ukrainian export products, this can be assessed as an attractive incentive.³⁹ At the same time, the costs to fulfil the relevant conditions are high: legal approximation in the field of quality standards, consumer protection, intellectual property rights and environmental standards, to name only a few, have to be undertaken, which is costly for Ukraine.⁴⁰ In this respect, a prerequisite for a free trade area is accession to the WTO, which demands further reforms and legal adjustment. A free trade area with the EU is in the interest of the oligarchs, as they hope for better trading conditions. They are the most important stakeholders and at the same time possibly the greatest beneficiaries of a free trade area. This reduces the costs to comply with European conditions. The results regarding alternatives for Ukraine and asymmetric negotiations are mixed. Russia offers an alternative integration space, and with the Single Economic Space (SES), an alternative area for economic cooperation. This reduces the asymmetry in negotiations between the EU and Ukraine in favour of the latter. Even though economic integration with the EU is financially more attractive than integration with Russia, Ukraine has with the SES an alternative and thus a better negotiation position towards the EU. The existence of these both conditions is mixed.

³⁹ Olga Shumylo, “The Debate on the EU Membership Prospect of Ukraine,” *Europeum Working Paper* (2007), available at <http://www.europeum.org/doc/pdf/859.pdf> (accessed 10 April 2010); and Olga Shumylo, “Ukraine and the European Neighbourhood Policy: Ensuring the Free Movement of Goods and Services”, *CEPS Working Document* 240(2006), available at http://shop.ceps.eu/BookDetail.php?item_id=1315 (accessed 10 April 2010).

⁴⁰ Shumylo, “Ukraine and the European Neighbourhood Policy: Ensuring the Free Movement of Goods and Services”, 7.

New Enhanced Agreement. To assess the attractiveness and costs of a new enhanced agreement between the EU and Ukraine is difficult, as the scope of this currently negotiated agreement is very broad. It could preserve the status quo, but might also lead to a substantive association of Ukraine with the EU. To evaluate the possibilities of real alternatives to a membership prospect we presume here a maximum of possible integration areas within the new enhanced agreement. This would be an attractive incentive for Ukraine, as it enhances the level of cooperation. The costs are hard to estimate as they vary among policy fields. In general they should be lower as for a full membership in the EU, which requires the implementation of the whole *acquis communautaire*; this is only partially necessary in the framework of an association agreement. Russia might be an important integration space not only in economic issues but in various policy fields, such as energy or security policy and thus an alternative for Ukraine. Nevertheless, the possible degree of integration with the EU contains more incentives than with Russia.⁴¹ Hence, an alternative exists, but the European option is more attractive for Ukraine, which leads to a mixed assessment. Ukraine has a great interest in negotiating a new enhanced agreement with the EU and is in the weaker negotiation position. The interest of stakeholders is hard to evaluate by this rough estimation, as it is highly dependent on the respective policy field.

Visa facilitation for Ukrainian citizens/Visa-free regime. Visa facilitation or even a visa-free regime, the maximum aim, might be a part of a new agreement. Due to its importance it is evaluated separately. Definitely, a visa-free regime is a very attractive incentive for Ukraine. The EU did not state any conditions so far. They produce rather low implementation costs, as Ukraine already established a visa-free regime for European citizens. On the other hand, a visa-free regime with the EU might imply the establishment of a visa regime with Russia,⁴² which raises the political and social costs for Ukraine. A visa-free-regime with Russia does not constitute a serious alternative incentive to visa facilitations with the EU. Even though there are many social ties with Russia, especially young people and businessmen who would like to travel and work in Europe. From this it follows that negotiations on visa facilitation are quite asymmetric in favour of the EU. Interests of stakeholders/oligarchs are not harmed by visa facilitation, provided that the visa-free regime with Russia will not be changed.

Prospect of membership. In general, EU membership is an attractive incentive. Ukraine has stated a few times its interest in joining the European Union and a majority of the political elite shares this aim, at least officially.⁴³ In any case, the prospect of membership would have a positive symbolic meaning for the population and the international business and foreign investors and, thus, is an attractive incentive. The oligarchs as important stakeholders wish for, first of all, integration into the internal market of the EU, independence from the Russian market and accession to the European Single Market. As EU membership would enhance participation in the internal market, they do not oppose membership. But the political conditions of EU membership would marginalize their influence: in a democratic system, economic elites should not determine the political process, as they do in Ukraine.⁴⁴ All in all, the oligarchs as important stakeholders are not in favour of EU membership, as they can gain the same benefits from a less costly free trade area.

⁴¹ Elena Kropacheva, "Ukraine as a Bone of Contention between Russia and the West" (Paper presented at the ECPR Graduate Conference, Colchester, Essex, 7-9 September, 2006), available at <http://www.essex.ac.uk/ecpr/events/graduateconference/papers/9/74/kropacheva.pdf> (accessed 10 April 2010).

⁴² However, one has to keep in mind that the EU might demand a stricter visa regime or immigration policy to protect the EU's external borders and the Schengen Area.

⁴³ Shumylo, "The Debate on the EU Membership Prospect of Ukraine".

⁴⁴ Heiko Pleines, "Informelle Einflussnahme und Demokratie: Wirtschaftsakteure in Russland und der Ukraine" [Informal Influence and Democracy: Economic Actors in Russia and Ukraine], *Osteuropa* 55:1 (2005), 99-108.

Despite the likely support of oligarchs, an EU membership perspective might lead to high internal and external costs. First, costs of adjustment due to the adoption of the *acquis communautaire* and extensive political and economic reforms. Additionally, only 43 per cent of the Ukrainian population support integration into the EU without reservations,⁴⁵ which raises the political costs for an EU-friendly government. The costs related to Ukraine's external relations can be named as the "Russian factor": on the one hand, the benefits from an EU-membership are attractive and unique, like financial aid from EU funds and participation in the European decision-making process, plus the benefits related to the internal market and visa-free regime outlined above. However, these advantages exclude benefits Ukraine currently enjoys from Russia, such as a visa-free regime, participation in the Single Economic Space (SES) and energy supplies.⁴⁶ Additionally, the EU has a certain interest in integrating Ukraine. The EU depends on energy supplies from Russia that are transferred through Ukraine. A Russian-friendly Ukrainian government might hamper the supplies. It follows that the "Russian factor" provides Ukraine an alternative to the negotiated agreement with the EU and thereby reduces asymmetries between the EU and Ukraine in favour of Ukraine. One might argue correctly that full integration with the EU is more attractive than with Russia. However, in the short term, Ukraine has to burden many costs arising from the accession process itself and additionally from the costs arising from the "Russian factor".

The Russian Factor. The main burdens for the attractiveness of the incentive "membership perspective" are the high costs Ukraine has to carry. The so called "Russian factor" raises the costs for Ukraine to comply with European standards and conditions.⁴⁷ Three central aspects have to be considered:

- *Social Relations with Russia.* First, the costs resulting from integration into the EU are comparatively higher for Ukraine than for the Central European accession countries: politically and economically these countries were not as closely related to Russia as is Ukraine,⁴⁸ second, their populations were unambiguously pro-European.⁴⁹ Due to the large number of Russian people living in Ukraine and the close historic, cultural and social ties, the social costs of EU integration are much higher for Ukraine than for CEECs.
- *Economic Relations with Russia.* The second aspect of the "Russian factor" is advantageous for Ukraine, but at the same time lowers the effectiveness of EU conditionality. Russia and the Commonwealth of Independent States (CIS) as an alternative integration space for Ukraine lessens the asymmetry in negotiations. The Central and Eastern European countries did not have such an alternative integration space. Taking into account that the EU has a certain interest having Ukraine in its sphere of influence, Ukraine can assert pressure to lower the adoption costs. At the same time, the adoption costs for integration with Russia are lower: from a material point of view, participation in the Single Economic Space may not be as attractive as

⁴⁵ This number is from 2006, compare Shumylo, "Ukraine and the European Neighbourhood Policy: Ensuring the Free Movement of Goods and Services".

⁴⁶ The basement of the Black Sea Fleet on the Crimea offers Ukraine a possibility to negotiate further gains, like cheaper energy supplies.

⁴⁷ Shumylo, "Ukraine and the European Neighborhood Policy: Ensuring the Free Movement of Goods and Services".

⁴⁸ Margot Light, John Löwenhardt and Stephen White, "Russia and the Dual Expansion of Europe", *ESCR Policy Paper* 02(2000), available at <http://www.one-europe.ac.uk/pdf/LightP2.PDF> (accessed 10 April 2010).

⁴⁹ The Baltic States fit only partly in this pattern: They had quite close economic and social ties with Russia, but the majority of the population was pro-European. Despite a high number of Russian people living in these states and former membership in the USSR, identification with Soviet rule was not as strong as in most regions of Ukraine. Thus, it is appropriate to suggest that the costs for the Baltic States were also comparatively small.

participation in the European market. On the other hand, the costs are lower: there is no implementation of technical standards or strict consumer protection laws or even the entire *acquis communautaire*. Additionally, language and cultural ties causing lower transaction costs for political and economic actors might lead to an orientation towards Russia.

- “*Carrots*” from Russia. In addition to the factors described above, Ukraine gains further benefits from Russia. Ukraine hosts the Black Sea Fleet on the Crimea Island. This allows Ukraine to exert pressure on Russia and improves its bargaining posture for commodities such as energy supplies. In the long term, EU integration also implies NATO membership. This leads to conflictive situation with Russia and the withdrawal of the Black Sea Fleet. This implies tension between those countries and the withdrawal of the benefits offered in turn. Both issues – the hosting of the Black Sea Fleet and NATO membership – are highly divisive among the population.

The raising costs make it even more difficult for Ukraine to achieve a favourable cost-benefit calculation regarding the offered incentives including a membership perspective. The “Russian factor” raises the costs for Ukraine and thus the attractiveness of the incentives is reduced.

At the same time, the EU might fear losing its influence in Ukraine. The EU needs cooperation with Ukraine as a transit country for energy supplies but also to secure EU frontiers and to fight drug trafficking and migration. As a reaction the EU can and offer certain benefits (like technical assistance, visa facilitation, economic integration) to Ukraine. This demonstrates that Ukraine can pick and choose the benefits and gains offered by both, Russia and the EU: this is a beneficial situation and there is less incentive for Ukraine to change it.

Generalizing the Findings

Presuming that state actor’s behaviour in the target country is based on a strict cost-benefit analysis, EU membership prospective offers under certain conditions fewer real incentives than commonly assumed. This is evident for the case of Ukraine. A free trade agreement with the EU might bring full participation in the common market, including the “four freedoms” (free movements of goods, services, persons and capital); a visa-free regime would bring much facilitation for the population, especially free movement of people, possibly including workers; technical assistance programmes like TACIS already include financial assistance, which could be easily increased. As demonstrated, many interests of Ukraine can be satisfied without an offer of EU membership. Additionally, by staying apart from the EU, Ukraine can avoid high costs of legal adjustment towards the *acquis communautaire* and the threat of a tough and constant monitoring process. Solely, participation in the European decision-making process and a certain prestige of being an EU member state is not included.

All in all, Russia has a negative impact on EU democracy promotion through conditionality. Integration into the EU is costly for Ukraine – both social and material costs are higher that they were for the Central and Eastern European accession countries. This has to be taken into consideration when demanding EU membership for a certain post-communist country in order to support the democratisation process. Conditionality and the prospect of membership are not panacea, but have to be applied carefully to be credible. Under the conditions identified, alternative, rather indirect mechanisms of democracy promotion by the EU like technical assistance or support and training at the society-/NGO-level might be more effective than the simple granting of the prospect of EU membership.

Indeed, granting the membership prospect randomly to several countries will lead to disappointment and decreasing credibility of the EU and, flowingly, the prospect of membership might lose its attraction and credibility in general.⁵⁰ Alternative areas of cooperation might be attractive incentives, have lower adoption costs for Ukraine and increase the credibility of the EU. Depending on the scope and design of these cooperation areas, these incentives can be named and designed as elements of flexible integration.

A Concept of Flexible Integration with the EU for Neighbouring Countries

In principle, the concept of flexible integration is designed to enable member states to establish alternative modes of integration and cooperation within and without the European treaties. Based on this assumption, concepts of flexible integration might be used to handle certain modes of cooperation with non-Member States, going deeper than bilateral cooperation, but concomitantly not resulting in membership of the European Union. These aspects might be incorporated into the design of the “Eastern Partnership”, the current policy towards the EU’s eastern neighbours.

The concept and terminology of *flexible integration* or *differentiated integration* means basically the general mode of integration strategies which try to reconcile heterogeneity *within* the European Union.⁵¹ The concept includes models of differentiated integration *among* member states according to the main models like multi-speed, variable geometry and a so called *à la carte* –integration: *multi-speed* relates, for example, to the European Monetary Union or accession agreements with new member states including temporary transitional periods for certain policy areas. Member States decide to pursue the same policies and actions, but at different times.⁵² *Variable geometry* can be defined as a mode of flexible integration “which admits to irreconcilable differences within the main integrative structure by allowing permanent separation between a core of countries”.⁵³ Third, a mode of flexible integration is *à la carte*, whereby respective member states are able to pick and choose, as from a menu, in which policy areas they would like to participate, while at the same time holding only to a minimum number of common objectives. For example, the United Kingdom and Ireland do not participate in the Social Chapter or the Schengen Agreement, whereas Norway and Iceland do fully participate, albeit being non-EU Member States.

Based on these already existing various models of integration, the EU should establish modes of cooperation with neighbouring countries which differ from the current existing models. In this context a more differentiated graduation of possible integration levels should be pursued. Between the extreme points of a loose partnership and full integration one can identify graduations which can be differentiated in cooperation and integration without membership. Cooperation is about going deeper than a partnership while not reaching the level of integration without membership.

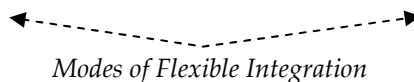
⁵⁰ Turkey is a good example for these consequences.

⁵¹ Alexander Stubb, “A Categorization of Differentiated Integration”, *Journal of Common Market Studies* 34:2(1996): 283; Alexander Stubb, *Negotiating Flexibility in the European Union: Amsterdam, Nice and Beyond* (Basingstoke: Palgrave, 2002); and Katharina Holzinger, “Optimale Regulierungsräume für Europa: Flexible Kooperation territorialer und funktionaler Jurisdiktion” [Optimal Regulation in Europe: Flexible cooperation in territorial and functional jurisdiction], In Christine Landfried, ed., *Politik in einer entgrenzten Welt: 21. wissenschaftlicher Kongress der Deutschen Vereinigung für Politische Wissenschaft* (Köln: Verlag Wissenschaft und Politik, 2001), 153-180.

⁵² See Stubb, *Negotiating Flexibility in the European Union: Amsterdam, Nice and Beyond*, 45-46.

⁵³ *Ibid.*, 48.

Partnership – Cooperation – Integration without membership – Integration with membership



Norway and Switzerland provide some forms of cooperation and elements of “integration without membership” with the EU, albeit being non-Member States. Admittedly, flexible integration with post-communist neighbouring countries differs from flexible integration with Norway and Switzerland regarding the economic capacity of the country, state power and asymmetry in negotiations between the EU and the target country. And democracy promotion, which is the focus of this paper, is redundant in these cases. Nevertheless, derived incentives such as association agreements, a free trade area or a visa-free regime show possible areas of intensive cooperation, possibly even “integration without membership”.

Within the use of conditionality, concepts of flexible integration might be a possibility to face future challenges of the European Union in its cooperation with neighbouring countries and offer attractive modes of cooperation and integration for both sides. One might argue that “flexible integration” is simply a term, which sounds better than “non-membership” but, in fact, does not provide anything more than non-membership and an empty promise. As shown above in the cost-benefit analysis, elements of flexible integration, namely a free trade area or a visa-free regime, can bring advantages for both the EU and the neighbouring country. Both sides gain benefits from each other but at the same time they do not have to carry the costs of rule adoption (target country) or full integration (EU). How to achieve such an absolute-gain distribution for both parties depends highly on the conditions in the neighbouring country and on the design of the flexible integration scheme.

Research on Europeanization can provide information about possible interplays between the EU and member countries. The analytical concept of Europeanization research can be used to analyse interplays between the EU and non-member countries based on modes of flexible integration. Concepts of a “Europeanization beyond Europe”⁵⁴ or EU democracy promotion via “sector-specific co-operation”⁵⁵ might serve in this context as a theoretical grounding for practical implications on how these modes of flexible integration can be designed. Two aspects are central for the establishment of an appropriate policy:

- **Differentiation of policy-areas.** In the context of Ukraine, the incentives like a Free Trade Agreement or a New Enhanced Agreement expand the scope of cooperation or even integration in many policy areas, such as consumer protection policy, environmental policy, migration policy or nuclear policy, to name only a few. Each of them can be designed differently according to the specific difficulties, incentives and costs for both the EU and Ukraine.
- **Credible promises.** A differentiation into specific policy areas would allow the EU to establish credible promises and at the same time credible conditions. The EU has to be willing to offer something and concomitantly to invest resources to control and follow up the progress made in the fulfilment of the conditions. This approach takes the mechanism of conditionality seriously but demands from the EU willingness to realize the promises and at the same time withhold them if conditions are not met.

⁵⁴ Schimmelfennig, “Europeanization beyond Europe”.

⁵⁵ Tina Freyburg, Tatiana Skripka and Anne Wetzel, “Democracy between the lines? EU Promotion of Democratic Governance via Sector-specific Co-operation”, *NCCR Working Paper 5(2007)*, available at <http://www.nccr-democracy.uzh.ch/nccr/publications/workingpaper/pdf/WP5.pdf> (accessed 5 April 2010).

Conclusion

This article discussed whether conditionality is a promising strategy for the EU to promote democracy in post-communist neighbouring countries without promising membership. Two lines of argumentation were employed to answer this question. First, the promise of conditionality depends on the stage of the democratisation process and on the democratic deficit at which the EU wants to aim. This allows a generation of prepositions about possible influence of an external democratisation strategy. First, the stages of democratisation in a target country and democratic deficits have to be identified. These deficits can be subordinated due to the criteria developed in transformation theory. Following this, the second step allows to determine which strategy of democracy promotion might be suitable. Regarding conditionality one has to ask if the stated deficit can be reached by conditionality. Second, other variables in addition to the attractiveness of the incentives have to be in place for a successful use of conditionality. As this study demonstrated with the case of Ukraine, alternative incentives are attractive and at the same time less costly than membership. Within the usage of conditionality, concepts of flexible integration might help create attractive incentives and, thus, ameliorate future challenges of the European Union in its cooperation with neighbouring countries⁵⁶. Additionally, the applied set of conditions might be used to analyse the promise of democracy promotion through conditionality without membership perspective for other countries.

⁵⁶ Nevertheless, this article and the derived conclusion are based on a rational-actor model and do not take into account the influence of the prospect of membership if the strict rational-actor model is put into question and modes of social learning or diffusion are exerted to promote democracy.