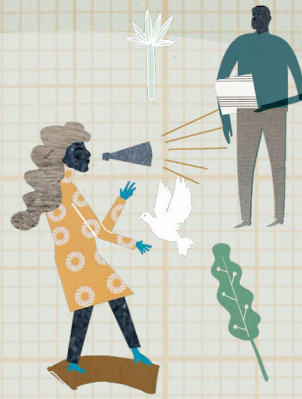




* TOGETHER TOWARDS SUSTAINABILITY *

REJUVENATING EU DEMOCRACY SUPPORT IN AFRICA

The Neighbourhood, Development and International Cooperation Instrument (NDICI) as a Promising Framework for Action?

Nathan Vandeputte
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The NDICI so far fails to provide the adequate framework to rejuvenate EU democracy support. Rather, it restores a tame and depoliticised narrative.



Engagement with sub-Saharan African partner countries will further be encouraged, however so far with insufficient guarantees that such relationship will be conditioned by respect for democratic values.



While democratic progress may still be of key interest to the EU, so far it seems to be of less importance as compared to other foreign policy interests such as migration, peace and stability. Hence, it remains unclear how or if the EU will respond to sudden or urgent democratic challenges or opportunities; of which the African continent has been witness.

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INTRODUCTION

Whereas the EU Global Strategy (EUGS) stated that »a resilient society featuring democracy, trust in institutions, and sustainable development lies at the heart of a resilient state«, it also indicated that democratic engagement »further afield« would from now on be considered on a »case by case basis«, in line with its new philosophy of »principled pragmatism«. Indeed, development cooperation – and thus external democracy support – would be based on »a realistic assessment of the current strategic environment« (European External Action Service, 2016). This brought doubt as to whether democracy support would still be on the agenda for regions other than the immediate neighbourhood, e.g. sub-Saharan Africa.

Yet, with the publication of the new Council Conclusions on Democracy (Council of the European Union [CEU], 2019) and a new European Union action plan on Human Rights and Democracy 2020–2024 (European Commission [EC], 2020b), and the emphasis on democracy in the ongoing negotiations on a new »comprehensive strategy with Africa« (EC, 2020c) and a new »EU-Africa compact« (EC, 2017a), the EU seems to have at least assuaged these doubts, if not turned them around. Indeed, the EU has stated to »step up efforts to integrate the protection of human rights, democracy and the rule of law into all areas of external action« (EC, 2020b, p. 4), and that supporting democracy will be in the Union's strategic interest (CEU, 2019). However, the way this emphasis on democracy will be implemented ultimately depends on the finalization of the new EU instrument for external action, the »Neighbourhood, Development and International Cooperation Instrument« (NDICI) (EC, 2018). Therefore, this policy brief asks, how much room for manoeuvre will this new instrument leave for democracy support? Is the NDICI sufficiently equipped to respond to the rising democratic opportunities and challenges in sub-Saharan Africa?

Box 1

EU Democracy Support in Sub-Sahara Africa: Developmental, Technocratic and Ineffective

According to statistics from the OECD Development Assistance Committee, between 2000 and 2017 the EU institutions provided about US\$ 10.5 billion aid for democracy support, which amounts to 10 % of total aid to Africa (Hackenesch, 2019). Yet in distributing this budget, the EU has been noted to be depoliticised and even ineffective (Pemunta, 2020; Hackenesch, Leininger & Mross, forthcoming). Namely, the EU is often seen to take broader economic and development – rather than normative democratic – considerations into account when implementing democracy support instruments (Del Biondo & Orbie, 2014); to invest more in promoting the effectiveness of government institutions compared to the democratic quality of institutions; and to work more closely with the government instead of supporting civil society organizations (Börzel & Risse, 2009). Finally, despite instances of democratic backsliding, the EU often remains committed to budget support and is rather wary of sanctioning non-compliance, since this may frustrate developmental performance, stability, or EU member state interests in many of these countries (Saltnes, 2017; Del Biondo, 2015).

Departing from the interpretation that the NDICI is a legal instrument and that *legality* entails a combination of *precision* (cf. the extent to which rules define appropriate conduct), *obligation* (cf. the extent to which the rule is legally binding) and *delegation* (cf. who and how actors implement, interpret and apply the rule) (Abbott et al., 2000), this policy brief finds that *so far*¹: the EC has neglected to further clarify the concept of democracy, that democratic enforcement may risk losing out to other policy interests, and that the democratic potency of grassroots in Sub-Saharan Africa is not fully pursued. As such, as to the claim that the »External Financial Instruments (EFI) will be used strategically« (cf. Von der Leyen, 2019), *for now* democratic objectives do not seem to be prioritized. Hence, the NDICI does not provide adequate guarantees to rejuvenate EU democracy support.

ANALYSIS

A TAME ATTEMPT TO CONCEPTUALIZE DEMOCRACY SUPPORT

In order to better adapt to and shape global trends, there have been different recommendations on how the EU could »rejuvenate« its external democracy support (e.g. Boucher et al., 2019; Godfrey and Youngs, 2019; Carothers, 2020). For example, a recent FES and DIE study noted the EU should sharpen its democracy support policies in sub-Saharan Africa by amongst others bringing democracy support to the core of EU external action, by developing a new narrative and engage »democracy« more strategically and by increasing its investments in intermediary organisations (Hackenesch, Leininger and Mross, forthcoming).

In that regard, in recent documents the EU has expressed more ambition to stand up for democracy at a time of increasing challenges worldwide. For example, the 2019 new Council Conclusions on Democracy have strengthened the narrative on supporting different democratic actors – including CSOs, parliament and independent media. Moreover, the conclusions pledged to act more quickly in response to sharp deteriorations or improvements in the democratic situation of countries (Council of the European Union, 2019). Similarly, the EU Action Plan on Human Rights and Democracy 2020–2024 attaches greater attention to »fundamental freedoms« and »strengthening civic and political space«. Also, it has included a specific chapter on »building resilient, inclusive and democratic societies«, in which it explicitly states that »[such] societies are built on independent media, accountable institutions, representative parliaments and engaged citizens, and provide a safe and enabling environment for civil society and independent media to voice concerns, influence policies, monitor decision-makers and hold them to account« (European Commission, 2020a, p. 6). Finally, when learning from the EU's mandate for a post-Cotonou agreement with new partnership with the African, Caribbean and Pacific countries

¹ Currently the regulation still is still being negotiated between the European Parliament and the Council of the European Union.

Box 2

The Neighbourhood, Development and International Partnership Instrument

As part of the new 2021–2027 Multiannual Financial Framework (MFF), the European Commission (EC) has proposed to merge most of its External Financing Instruments (EFIs) into a single overarching instrument, the NDICI. The argument is that it will simplify external spending, avoid duplication, offer more flexibility and ensure greater coherence, complementarity and economies of scale. Specifically, the proposed instrument would include three main components: a geographic (EUR 68 billion), a thematic (EUR 7 billion) and a rapid response pillar (RRP) (EUR 4 billion). In addition, the proposed instrument will include an emerging challenges and priorities cushion (ECPC) (EUR 10,2 billion), which will allow for flexibility in response to existing or emerging urgent priorities. The proposed regulation foresees an increase of 30% in budget, even when taking into account Brexit. Since October 2019, the legislative phase has been »stuck« in trilogue meetings between the EC, Council and European Parliament (EP).

(ACP), the EU's commitment to democracy and human rights has not waived, but in fact is shaping the EU's negotiating directives (Saltnes, 2020).

Yet, in sharp contrast to these documents, the NDICI regulation does not clarify how democracy fits into those political objectives and overall it does not seem to continue the more »political« narrative as put forth in recent policy documents. Rather, it reverts back to a safe and »tame« narrative (cf. Bush, 2015), with little specificities on the exact substance of democracy. For example, when defining the general principles of the agreement (cf. art. 8), the regulation cites rather vague and somewhat depoliticizing principles of inducing a »rights-based approach« and mainstreaming »gender equality and women's empowerment«. Similarly, annex II and III rather superficially state that areas of intervention will include strengthening and upholding »the rule of law, democratic norms and values, independent media, accountable and inclusive institutions including political parties and parliaments, the fight against corruption and election observation«, however, they do not provide specifics or priorities, nor do these annexes match the narrative and ambition of the Action Plan. Moreover, and perhaps most notably, other than very briefly in the memorandum, »combatting shrinking democratic space« is not even mentioned. Finally, it remains highly questionable whether the reliance on »key performance indicators« as included in annex VII – namely the »rule of law score« and »political stability and absence of violence« – will be sufficient to truly induce such more »political« objectives.

GEOGRAPHIC COOPERATION: THE DIFFICULT QUESTION OF OWNERSHIP

Sub-Sahara Africa as a geographic region will remain the prime recipient of development aid as compared to the previous funding framework. Indeed, the proposed budget

allocation for the geographic programme on Sub-Saharan Africa amounts to at least EUR 32 billion (out of EUR 68 billion), which represents an increase of 7 % in constant prices². Also similar to before, any aid allocation under this programme will be principled on »ownership«. Indeed, any action financed under the geographic programme should be in line with the partner countries' policy cycles and objectives, and partner countries' systems for the implementation of programmes. While it is generally accepted that country ownership is the way to go, however, this may also result in echoing an opportunistic claim of »non-interference« or that external influence would not be exercised »to undermine popular expressions of democracy that may not be favoured by European powers«; as is often argued by many countries in sub-Saharan Africa (Gomes, 2013; Paul Kagame, as quoted by Barber and Pilling, 2017). Undoubtedly, democracy is an »essentially contested concept« (Gallie, 1956) and recipients of democracy support should have a stake in defining the essence of democracy (see also Kurki, 2013; Youngs, 2015), yet greater clarity is needed on what are its non-negotiable principles, and whom the stakeholders in defining democratic ownership should be. Indeed, the NDICI regulation does not include any clear indicators to assess local conceptions of democracy – in particular how civil society or other non-state actors perceive it, nor does it include any clauses on aid suspension. As such, under this geographic instrument, »democracy« risks being degenerated to a game of political bargaining, which may come at the cost of promoting individuals' and civil society's right to autonomy.

However, there may be some mitigating factors. First of all, because the European Development Fund (EDF) will now be included into the overarching instrument, the EP will gain more influence on programming through its increase of budgetary and scrutiny powers. Potentially, this may result in more emphasis on the normative dimension of democracy, particularly since in the past the EP has already proven itself to be the »normative voice« and to have influenced the normative direction in the EU's development policy (Delpitte and Verschaeve, 2015; Feliu and Serra, 2015). This oversight role and normative potential could be even further increased if the EP realizes its objective to eliminate the implementing acts/comitology procedure, and to replace them by Commission delegated decisions executing the regulation (EP, 2019). Yet, such change is very unlikely.

Secondly, it must be noted that the EC has included the clause that cooperation within this geographic instrument will be guided by »the partner's capacity and commitment to promote shared interests and values, and to support common goals and multilateral alliances, as well as the advancement of Union priorities« (p. 34). However, for this to hold value in terms of democracy, the democratic interests, values and priorities must be defined and operationalized.

² In contrast, the neighbourhood sees an increase of 8 %, while Asia, the Pacific, the Americas and the Caribbean will see a 12 % decrease of funding.

AMBIGUOUS FLEXIBILITY TO DEMOCRATIC CHALLENGES AND OPPORTUNITIES

Over the past decade, mass uprisings in Africa have accounted for one in three of the nonviolent campaigns aiming to topple dictatorships around the world: from the Arab spring in Northern Africa, to «le Balai Citoyen» in Burkina Faso, to more recently the ouster of Omar al-Bashir in Sudan (Marks, Chenoweth and Okeke, 2019). However, simultaneously, Africa has also accounted for violent crackdowns, irregular elections and closing civic and political space. Within this context of democratic challenges and opportunities, how does the NDICI enable a flexible European response?

First of all, in a follow up to the European Instrument for Democracy and Human Rights (EIDHR), the NDICI regulation has dedicated a specific thematic programme on «Human Rights and Democracy», with a financial envelope of EUR 1,5 billion. While the new programme slightly increases the budget as compared to the EIDHR, it is less clear on the scope and principles of democracy which will inform its programming and implementation. For example, in contrast to the regulation (EU) 235/2015 which establishes the EIDHR (2014), it makes no references to participatory, representative and parliamentary democracy, nor is there a dedication that up to 25 % of the budget will be devoted to the funding of EOMs. Moreover, while art. 10 (2) of the NDICI regulation states that it «shall provide assistance independently of the consent of governments and other public authorities of the third countries concerned», in fact it could be argued that the NDICI has somewhat toned down the «independence» of the EIDHR. Indeed, the new regulation states that thematic programme must be «complementary to actions funded under geographic programmes», rather than supplementary. While it may also be undertaken where there is «no agreement on the action with the partner country concerned», no longer does it emphasise to be a «niche» instrument, able to operate where the others do not or cannot. In other words, there are insufficient guarantees that the instrument will be used to support democracy independently.

Secondly, in order to better «contribute to stability and conflict prevention in situations of urgency», the EC proposes EUR 4 billion to the RRP and EUR 10,2 billion to the ECPC. This latter budget will be maintained by leaving unallocated a certain budgetary amount within each funding programme. Notably, the RRP frames the grounds for intervention in negative ways (e.g. «a *threat* to peace, democracy, law and order»), however, it makes no reference to democratic opportunities, other than the vague reference to «strengthening resilience». Moreover, both the RRP and ECPC lack clarity. For example, the specificities of democratic deterioration are not mentioned, nor is it made explicit how the proposed actions will reinstate or enhance democracy. In fact, the references within the RRP to «resilience» and «reinforcing the capacity of a state to build, maintain or restore its core functions» (cf. annex IV) rather points to prioritizing stability over core democratic transformation. Also, the RRP makes reference to «actions addressing foreign pol-

icy needs and priorities», including migration and security issues, EU trade policy, and climate change. Since the regulation does not set clear commitments on what percentage of overall aid should be directed towards democracy, this risk further diluting the importance of democracy itself; the more so since these foreign policy objectives have become especially relevant to sub-Saharan Africa (cf. conclusion of Economic Partnership Agreements; establishment of trust funds; etc.). Finally, such dilution can be further exacerbated by the transfer of funds through the ECPC. Indeed, while the ECPC may be used to «top-up» any of the geographic, thematic or rapid response programmes – and therefore add to the support of democratic objectives – without specific budgetary targets for democracy aid within each programme – including the thematic programme on democracy and human rights – this cushion risks further siphoning away aid for other objectives. In other words, There are no measures in place which would protect democracy from losing out against these interest.

A WATERED DOWN PARTNERSHIP WITH NON-STATE ACTORS

An empowered civil society (and more broadly non-state actors in general) has often been acknowledged to be a crucial component of any democratic system, since CSOs represent pluralism and contribute to more inclusive and fair societies (EC, 2012, 2017b; CEU, 2017). In that regard, the NDICI regulation affirms it will engage CSOs more strategically and mainstream their relevance in all areas of external cooperation, in particular the Democracy and Human Rights thematic programme. However, in doing so, the regulation again lacks specifics.

First of all, whereas the EU previously pledged to better cooperate with «new and more fluid forms of citizens and youth actions», trade unions and diasporas (EC, 2012, 2017b), the new regulation refrains from such specification of stakeholders or non-state actors, nor is it sufficiently clear in terms of eligibility. Indeed, while the Commission may cooperate «with any entity not covered under the definition of legal entity» (art. 24), it will also «take into account their specificities, including their needs and the relevant context». Specifically, such cooperation may then «be restricted with regard to the nationality, geographical location or nature of applicants, where such restrictions are required on account of the specific nature and the objectives of the action and where they are necessary for its effective implementation» (art. 24). However, while the regulation takes a rather broad approach to eligibility, it fails to sufficiently outline the grounds of inclusion and exclusion. For example, as to the «nature of applicants», the regulation does not clarify how any such stakeholder can contribute to defending democracy and fundamental freedoms. If anything, the regulation remains rather ambiguous and depoliticised on this matter. For example, while it acknowledges the role of civil society as an «effective force for political reform» (p. 11), it also somewhat downplays such political potential by referring to enhancing their «capacity to perform their roles as independent devel-

opment and *governance* actors» (Annex II, emphasis added). Secondly, the regulation claims to cut red tape and simplify »cumbersome administrative and financial procedures«. Yet, while it does establish the procedure for direct-awards of low-value grants to finance actions in the most difficult conditions where the publication of a call for proposals would be inappropriate or impossible, the bulk of funding will still be tied to programme-based objectives, including relying on calls for proposals. Such funding modality, however, often results in EU grants becoming concentrated in the hands of professionalized NGOs, and moreover, it risks producing a culture of dependency. While changing the funding modalities may be difficult, the regulation has not simplified the rules and procedures governing grant application, nor does it state an intent to provide for specific training programmes on how to apply for Union funding. In that regard – and with arguably more relevance to the EU neighbourhood – nowhere does the regulation acknowledge the added value of the European Endowment for Democracy (EED), does it seek to expand it, let alone even mention it.

CONCLUDING REMARKS AND RECOMMENDATIONS

The NDICI regulation has the potential to cement the more ambitious narrative on democracy support for the foreseeable time to come. However, this potential is hampered by the increasing emphasis on becoming a »geopolitical actor«. Short term and foreign policy interest trump the more normative narrative. Moreover, when compared to the three dimensions of legality (cf. Abbott et al., 2000), we find that this potential is undercut by its lack of clarity on *precision*, *obligation*, and *delegation*. Indeed, in contrast to other policy documents, the regulation has failed to valorise what exactly it understands with democracy; it has not included any clarifying procedures in case of democratic deterioration; and it has not defined the role or added value of different non-state actors in policy making and implementation. In short, the NDICI proposal has failed to crystalize a clear political strategy for EU democracy support which clearly sets out how the EU will deliver on its promise to »step up« its efforts promote democracy globally. For sub-Saharan Africa in particular, it therefore remains unclear what importance will be given to democracy, or how democracy will be supported. If anything, it risks losing out to other foreign policy objectives such as maintaining peace, curbing migration, climate change or trade. After all, EU member states and partner countries remain in the driver seat.

However, since the regulation is still in a legislative phase, whereby the EP, EC and council are engaged in trilogue negotiations, there is still room for improvement. For example, in concluding their first reading, the EP has – amongst others – already significantly ramped up the emphasis on protecting democracy and civic space. Also, amongst others, it has proposed to increase the overall budget, it has strengthened democratic conditionality, and it has strengthened the narrative on the independence of the democracy programme. Finally it has also proposed to increase its control of the instrument through changing the procedure of implementing acts

to delegated acts (EP, 2019). Yet, the Member States most likely will not follow suit. In effect, their influence may result in a decreased emphasis on external action, possibly with even stronger ramifications for democracy support (CEU, 2020; Hadfield and Lightfoot, 2020). Also, learning from previous MFF negotiations, the longer the negotiations last, the more likely it will be that the external budget line will suffer the most disproportionate cuts (Jones and Ahairwe, 2020).

Therefore, in conclusion, the policy brief recommends for the EU, with regards to the NDICI, to:

1. Clarify the non-negotiable principles of democracy.

While indeed the EU is right in its assertion that democracy cannot be imposed from the outside and that the EU – in terms of external democracy support – can only play an assisting role in relation to national and local actors, who retain ownership of the genuine change processes required to build and enhance democracy (e.g. CEU, 2009), the EU must nevertheless more explicitly emphasise the core rules of the game. For example, the EU could make explicit reference to the »International Covenant on Civil and Political Rights« (United Nations, 1976). Explicit rather than vague democratic principles should form the foundation of the NDICI.

2. Enforce a sanction mechanism and greater compliance.

Throughout the NDICI there is a lot of emphasis on »the partners' commitments and performance«, however the exact indicators for how such performance will be evaluated are lacking, nor are the consequences of neglect clear. Therefore, the EU – together with grassroots actors – should provide clear indicators of what constitutes democratic progress or regress. In case of the latter, the EU should stipulate not only the grounds, but also the procedure for aid suspension. This must not merely follow a »case-by-case« scenario, as indicated in the EUGS (EC, 2016).

3. Define how supporting democracy externally is in the EU's strategic interest.

Redefining values in terms of interest has become the new norm, however, the NDICI has nevertheless overlooked how this translates to democracy. Therefore, other than for geopolitical reasons, the EU must explicate how democracy leads to socio-economic development, or how democracy is essential to combat root causes of migration.

4. Clearly define how non-state actors and grassroots movements can be a force for political reform, and adapt cooperation – including funding framework – accordingly.

More than performing their role as governance actors, different non-state actors and movements in sub-Saharan Africa have shown to be initiators of democratic reform. The EU funding framework must be more supportive of these initiatives, including through adapting its funding regulation and inviting these entities as penholders of democracy aid programming, not just consultants. For example, the NDICI regulation could make more explicit reference to the democratic role of CSOs, political parties, parliaments, media, trade unions and local governments.

5. **Ring-fence aid targeted for democratic objectives within all components of the NDICI.** The EU should allocate thresholds for what level of funding should be used for democratic objectives. This will prevent the budget to be syphoned away for other policy directives.
6. **The finalisation of the NDICI regulation should guarantee coherence with the substance and legislative process of the new »comprehensive strategy with Africa« and the new »EU-Africa compact«.** Specifically these external policies should be consistent in their (strengthened) emphasis on the non-negotiable principles of democracy as underlying foundation of agreement.

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REJUVENATING EU DEMOCRACY SUPPORT IN AFRICA

The Neighbourhood, Development and International Cooperation Instrument (NDICI) as a Promising Framework for Action?



With the publication of the new Council Conclusions on Democracy and a new EU action plan on Human Rights and Democracy as well as the emphasis on democracy in the ongoing negotiations on a new »comprehensive strategy with Africa«, the EU seems to have assuaged doubts that democracy support could be considered on a case by case basis in line with its new philosophy of »principled pragmatism«. On the contrary, the EU has stated to step up efforts to integrate the protection of human rights, democracy and the rule of law into all areas of external action and that supporting democracy will be in the EU's strategic interest. However, the way this emphasis on democracy will be implemented ultimately depends on the finalization of the new EU instrument for external action, the »Neighbourhood, Development and International Cooperation Instrument« (NDICI).



This policy brief asks, how much room for manoeuvre will the NDICI leave for democracy support? Is the new instrument sufficiently equipped to respond to the rising democratic opportunities and challenges in sub-Saharan Africa? This policy brief finds that so far: the European Commission has neglected to further clarify the concept of democracy, that democratic enforcement may risk losing out to other policy interests, and that the democratic potency of grassroots in Sub-Saharan Africa is not fully pursued. As such, as to the claim that the External Financial Instruments (EFI) will be used strategically, for now democratic objectives do not seem to be prioritized. Hence, the NDICI does not provide adequate guarantees to rejuvenate EU democracy support.



In contrast to other policy documents, the NDICI regulation has failed to valorise what exactly it understands with democracy. It has not included any clarifying procedures in case of democratic deterioration, and it has not defined the role or added value of different non-state actors in policy making and implementation. In short, the NDICI proposal has failed to crystalize a clear political strategy for EU democracy support which clearly sets out how the EU will deliver on its promise to »step up« its efforts promote democracy globally. For sub-Saharan Africa in particular, it therefore remains unclear what importance will be given to democracy, or how democracy will be supported.

Further information on the topic can be found here:
<https://www.fes.de/en/together-towards-sustainability>