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# A Bureaucratic Bias? EU Election Observation Missions in Africa: Between Independence and Development Industry

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DEPARTMENT OF EU INTERNATIONAL  
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# **A Bureaucratic Bias? EU Election Observation Missions in Africa: Between Independence and Development Industry**

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## **About the Author**

Martin Ronceray holds an MA in Public Affairs from the University Panthéon-Sorbonne in Paris and an MA in EU International Relations and Diplomacy Studies from the College of Europe in Bruges. Besides the functioning of the EU, his main fields of expertise include development cooperation, security and political economy in East Africa and in the post-Soviet space. This paper is based on his Master's thesis at the College of Europe (Chopin promotion), which was awarded the prize on "New directions for EU relations with Africa". He now works for the European Centre for Development Policy Management (ECDPM), a "think and do tank" based in Maastricht and Brussels.

## Abstract

The European Union is the second provider of Electoral Observation Missions (EOMs) worldwide. It is partly to the credit of 'Normative Power Europe' that international election monitoring has become an international norm. This paper develops a framework which conceptualises EOMs as 'dealers of legitimacy' in a foreign political marketplace, due to their ability to endorse or condemn (parts of) electoral processes. This role of EOMs gives a particular importance to the question of their independence: can they be subjected to interferences, why and through which processes? While standardisation ensures a high level of neutrality throughout the span of EOMs, significant glitches make them prone to episodic interest-driven interference. Based on secondary literature and interviews with a range of practitioners, this paper develops the argument of a 'bureaucratic bias' of a donor and democracy promoter, which accounts for some of the breaches of EOM independence. This bias is linked to the conditionality of development aid and the possibility of its suspension in case the government in power loses too much international legitimacy – to which a negative EOM report contributes. Policy recommendations include a modification of the final phases of the EOM.

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## **Introduction: the EU and international election observation**

Election monitoring is itself perhaps as old as elections are, but international Election Observation Missions (EOMs) have become frequent from the mid-20<sup>th</sup> century, and particularly since the end of the Cold War. The European Union (EU) completes on average between six and ten EU EOMs per year, for a total budget of around forty million euros.<sup>1</sup> In total, close to 170 EU EOMs and similarly-labelled missions such as Election Expert Missions and Election Assessment Teams were concluded as of the turn of 2017.<sup>2</sup> Given their cost and importance, EOMs are relatively under-studied subjects among democracy promotion instruments.

EOMs are only deployed in countries which do not qualify as consolidated democracies and which nevertheless express commitment to democracy and human rights. A majority of countries in the world fall under this category. The most common narrative is that EOMs deter and detect fraud in a way similar to that of domestic observers present in a polling station. Their mandate includes, among other things, the monitoring of media freedom, of political rights enforcement during the campaign, of the process of collecting election results as well as of the judiciary and legislative backgrounds of the election. This broad mandate allows EOMs to have a high deterrent impact on many forms of rigging: censorship, instrumental violence, judiciary arbitrary, propaganda, vote-buying, breaches of equitable media coverage or of campaign financing laws, etc.

Considering the overlap with the largest EOM provider worldwide – the Organisation for Security and Co-operation in Europe (OSCE) –, the EU does not send EOMs to countries which are members of the OSCE. This leaves an EU focus on Africa, South and East Asia, as well as South America which is partially pre-empted by the Organisation of American States. As a result, a majority of countries which host EU EOMs are located in Africa.

The EU has two separate policy frameworks for dealing with African countries in matters of democracy, good governance and human rights. Northern Africa is covered by the European Neighbourhood Policy (ENP), and Sub-Saharan Africa falls within the 2020-expiring Cotonou Agreement covering the Africa, Caribbean and

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<sup>1</sup> European Union, *Annual Action Programme for 2016 for Election Observation Missions (EOMs) and Complementary Activities*, Brussels, 2016.

<sup>2</sup> The difference between EOMs and the rarer Election Expert Missions and Election Assessment Teams is largely a matter of scope and budget. EOM will be used for all of them.

Pacific (ACP) countries. These EU frameworks seek the establishment of close ties with third countries, with a dual focus on economic integration and political cooperation. Democracy promotion falls under the latter branch, and EOMs are used in both frameworks. Moreover, democracy promotion faces similar challenges in both regions, such as the 'cohabitation' of partial democratic facades with partly authoritarian political cultures.

An official formulation which can be found in almost all EU EOM reports states that: "The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005."<sup>3</sup> There is no consistent definition of this independence, but together with the oft-mentioned neutrality, it means two things in particular: first, the mission pursues its mandate of verifying the implementation of a legal framework disregarding whom or what cause it might favour. Second, the mission does not take orders from anyone, and despite being funded by the EU budget, it cannot represent the EU and the EU cannot be held accountable for, or influence, what the EOM does.

The reference to the United Nations is meaningful: with its EOMs, the EU offers to provide a 'watchdog' of universal values and of legality, but does not pursue any self-interested agenda. Yet, when reading some reports of EU EOMs in Africa after following closely the election in question, one is likely to wonder about the 'diplomatic', mild language employed. This is the empirical puzzle from which this research starts. This mildness can be accounted for in different ways, many of which do not involve a purposeful toning down of criticism. Although research on EU EOMs mentions the possibility of breaches of neutrality, very little attention is addressed to this possibility.<sup>4</sup>

Other aspects of EOMs are of more interest to academics. Some of them focus on the use of EOM findings by the EU, contributing to debates on the coherence in and between EU policies. Another approach to EOMs is to study the impact of the missions: to what extent they deter, foster or modify democratic practices, fraud, violence, boycott, etc. Both of these questions have direct consequences for any argument about whether it is legitimate for the EU to spend taxpayers' money on costly – and potentially dangerous and harmful – missions in settings where it has little or no direct

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<sup>3</sup> See, for example, European Union, *European Union Election Observation Mission to Nigeria, Final Report*, Abuja, 2015, p. 9.

<sup>4</sup> Kelley, Judith, "The Good, the Bad and the Ugly: Rethinking Election Observation", *IDEA Papers*, International Institute for Democracy and Electoral Assistance, Stockholm, 2012.

stakes. As such, these controversies have attracted more attention than the question of whether the EOMs are neutral and independent from a practical point of view.<sup>5</sup> This is the gap that this research proposes to address: can the EU's EOMs be subjected to interferences – breaches of independence –, of what nature and through which process?

The next section summarises literature findings relevant to this research. Drawing on this review, a specific research hypothesis is elaborated: the bureaucratic bias, whereby the development industry might need the EOMs to tone down the level of critique contained in EOM reports, in specific and significant cases. The third section attempts to operationalise a framework in which EOMs are 'distributors of legitimacy': they can favour some parties over others and promote certain trends over others in the political developments of the host country. A fourth section draws on practitioners' accounts to substantiate the argument of a bureaucratic bias of the EU EOMs.

## Literature review

This part introduces key concepts and research streams necessary to the analysis. Sections are dedicated to the structuring dilemmas of democracy promotion; to electoral observation as an international norm; to the place of norms and interests in EU foreign policy; to the role of incentives and disincentives in EU international cooperation frameworks and to the state of research regarding EOM neutrality. A last section introduces the research argument of a bureaucratic bias of EU election observation.

### *Developmental donors and democracy promoters*

Democracy promoters are also aid donors, and their objectives in terms of democratisation and economic development do not necessarily go hand in hand. A well-established theory captures their dilemma when addressing (semi-)autocratic regimes as follows: their approach can be either that of a developmental donor or that of a political democracy promoter who also provides aid.<sup>6</sup>

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<sup>5</sup> Daxecker, Ursula E., "The Cost of Exposing Cheating. International Election Monitoring, Fraud, and Post-Election Violence in Africa", *Journal of Peace Research*, vol. 49, no. 4, 2012, pp. 503-516; Sjöberg, Frederik M., "Autocratic Adaption: The Strategic Use of Transparency and the Persistence of Election Fraud", *Electoral Studies*, vol. 33, no. 1, 2014, pp. 233-245.

<sup>6</sup> Carothers, Thomas, "Democracy Assistance: Political vs. Developmental?", *Journal of Democracy*, vol. 20, no. 1, 2009, pp. 5-19.

*Political* democracy promotion relies on the idea that some political forces in a country are more pro-democracy than others, and it attempts to help them prosper and access influential positions. It can be difficult to pursue this goal openly, and it often needs the backing of international norms to appear at least a little legitimate to the government of the recipient country.

*Developmental* democracy promotion relies on the consolidation of the institutions and of the political culture. It draws on the idea that formal democracy is no panacea, and that fundamental prerequisites – such as human development and literacy for example –, are to be achieved before genuine democracy can settle. Focusing on the long term, this approach often justifies indulgence towards so-called developmental autocracies: regimes which show commitment to economic development but make few or no concessions to political freedoms and democracy. The EU is reported to make a balanced use of the two approaches, depending on the situations.<sup>7</sup>

Strictly focusing on democracy promotion, this dichotomy can take a slightly different shape. Authors have opposed an ‘effective government’ approach, which promotes above all statehood, to a ‘democratic governance’ approach which favours participation and inclusion.<sup>8</sup> The underlying dilemmas often boil down to the trade-offs between stability and democracy.

These categories shed light on what EOMs can be about, because they can play a role in both strategies. EOMs can contribute to the amelioration of the democratic nature of institutions and of the political culture of the host country.<sup>9</sup> Yet their ability to favour one party over another by endorsing or criticising the election give them an important political role as well.

#### *Electoral observation as international norm*

An empirical puzzle which attracted much attention in the study of EOMs is why any autocrat would consent to invite a mission likely to undermine the legitimacy of his or

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<sup>7</sup> Del Biondo, Karen & Jan Orbie, “The European Commission’s Implementation of Budget Support and the Governance Incentive Tranche in Ethiopia: Democracy Promoter or Developmental Donor?”, *Third World Quarterly*, vol. 35, no. 3, 2014, pp. 411-427.

<sup>8</sup> Börzel, Tanja A. & Christine Hackenesch, “Small Carrots, Few Sticks: EU Good Governance Promotion in Sub-Saharan Africa”, *Cambridge Review of International Affairs*, vol. 26, no. 3, 2013, pp. 536-555.

<sup>9</sup> Cordenillo, Raul & Andrew Ellis, (eds.), *The Integrity of Elections: The Role of Regional Organisations*, International Institute for Democracy and Electoral Assistance Report, Stockholm, 2012.



her own regime? Why would anyone invite an EOM and still cheat, as it is often the case? A way to address this puzzle is to understand election observation as an international norm.<sup>10</sup> A norm is understood here as “a standard of appropriate behaviour for actors with a given identity”.<sup>11</sup>

Nowadays most countries in the world uphold at least a democratic façade and political institutions ostentatiously designed to represent their citizens. Roughly, the question is not so much whether a country rhetorically commits to international norms such as democracy, but rather whether it also acts on this rhetoric. EOMs are designed to assess such discrepancies between legal commitments and actual policies and processes. Under the pressure of donors – and singularly of the EU and its member states – , the hosting of EOMs has thus become the expected – or ‘normal’ – behaviour for incumbents in most countries.<sup>12</sup>

With the systematisation of election monitoring in transition countries since the end of the Cold War, not inviting EOMs has become a suspicious move, rather than the opposite. As such, autocrats have much to lose by not inviting EOMs because this act would send the message that their commitment to democracy is only rhetorical and does not stand scrutiny. By comparison, the ‘costs’ of hosting an EOM can be reduced dramatically – through democratic concessions, advanced methods of fraud, public image management as well as the co-optation of critics.<sup>13</sup>

#### *‘Normative Power Europe’ and interests*

In the debates about the EU’s unique nature as a polity, Manner’s notion of ‘Normative Power Europe’ accounts best for its activism as a norm entrepreneur and ultimately as a provider of EOMs.<sup>14</sup> In his words, the EU exports and promotes five core norms, all of which are at stake with EOMs: election monitoring can contribute to peace (politicisation and scrutiny contributing to the pacification of conflicts); democracy; liberty; human rights and the rule of law (by deterring adverse dynamics).<sup>15</sup>

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<sup>10</sup> Hyde, Susan D., *Explaining the Causes and Consequences of Internationally Monitored Elections*, UC San Diego, San Diego, 2006.

<sup>11</sup> Finnemore, Martha & Kathryn Sikkink, “International Norm Dynamics and Political Change”, *International Organization*, vol. 52, no. 4, 1998, p. 691.

<sup>12</sup> Hyde, *op. cit.*, p.10.

<sup>13</sup> Sjöberg, *op. cit.*, p.1; Little, Andrew, “Fraud and Monitoring in Non-Competitive Elections”, *Political Science Research and Methods*, Cambridge University Press, vol. 3, no. 1, 2015, p. 19.

<sup>14</sup> Manners, Ian, “Normative Power Europe: A Contradiction in Terms?”, *Journal of Common Market Studies*, 2002, vol. 40, no. 2, pp. 235-258.

<sup>15</sup> *Ibid.*

Of all EU policies, democracy promotion is possibly the most normative in essence, because it is all about spreading and enforcing norms. Yet the very nature of Normative Power means that norms and interests are not as distinct as they would be for a more classic polity. A blunt but relevant way to put it is the following: "Africa and its people serve as a means through which national and institutional self-images are developed and defined."<sup>16</sup> This reflects the fact that the public image of a normative actor is a goal by itself, or at least a valuable means to achieve other objectives. 'Normative Power Europe' is unequalled as a values-driven polity, but it pursues 'interests', whether or not they can be described as normative.<sup>17</sup>

#### *'Carrots' and 'sticks' in the Cotonou and ENP frameworks*

Some studies focus on the concurrence of norms and interests in determining the directions of EU foreign policy. This angle is frequent when assessing conditionality and sanctions. In developing countries to which the EU provides Official Development Aid (ODA), policies are often assessed in terms of 'carrots and sticks' – incentives in the former case, withdrawal of benefits or coercion in the latter case.<sup>18</sup> Most foreign policies include some element of retribution (such as the denial of symbolic or material resource) or rewards (also either symbolic or material). EOMs participate in such an approach: their means of punishment and rewards are of a purely immaterial nature, but they are backed by a system of international norms.

The frameworks of cooperation between the EU and the countries studied here, the ENP and Cotonou, institutionalise this dual approach. The adaptation of the ENP to the post-Arab Spring context under the motto 'more for more' is an example of the continuation of the narrative of 'carrots' and 'sticks'.<sup>19</sup> In the case of the ENP countries, the EU takes economic sanctions on the basis of bilateral association agreements. As far as African ENP countries are concerned, no aid suspension is currently enforced (despite the numerous sanctions against individuals in Egypt), but the case of Syria shows that the suspension of ODA is a genuine option. In the case of the Cotonou Agreement, sanctions and in particular the suspension of ODA on the basis of article

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<sup>16</sup> Taylor, Ian & Paul Williams (eds.), *Africa in International Politics: External Involvement on the Continent*, London, Routledge, 2004, p. 18.

<sup>17</sup> Del Biondo, Karen, "Norms or Interests? Explaining Instrumental Variation in EU Democracy Promotion in Africa", *Journal of Common Market Studies*, vol. 53, no. 2, 2015, pp. 237-254.

<sup>18</sup> Börzel & Hackenesch, *op. cit.*, p. 536.

<sup>19</sup> Balfour, Rosa, "EU Conditionality After the Arab Spring", *IEMed Papers*, vol. 16, 2012.

96 have been enforced on more than fifteen occasions since the entry into force of the Agreement in 2003 – always in Sub-Saharan Africa.<sup>20</sup>

### *EOM neutrality and interests*

The double standards (different reactions to comparable situations) in the use of ‘carrots’ and ‘sticks’ with developing countries are well-studied in the case of sanctions. Commercial and security-related interests influence even such a normative actor as the EU, whose responses to breaches in human rights depend among other things on such economic and strategic factors.<sup>21</sup>

The questions subjacent to this literature could be transposed to election observation, where double standards, biases and hidden agendas have been addressed in a much less in-depth manner. It has been pointed out that EOM can present a “pre-election stance” – a predisposition, a bias. Contradicting results of missions monitoring simultaneously the same election suggest the presence of such biases, which can originate from ideological options such as a principle that election observation should never run the risk of fuelling violence.<sup>22</sup> This is not the place for addressing the complex moral debates underlying this issue (for example, is it justified to bend facts if it contributes to saving lives?). The focus here is on agendas and strategies which can infringe on EOM neutrality at large:

Regional IGOs [intergovernmental organisations] with more non-democratic members are least neutral. But even organizations such as the EU have political interests in countries, and these interests can interfere with the observation mission’s freedom.<sup>23</sup>

Rather than sketching out and debating all these possible ‘interests’, this paper seeks to elaborate a conceptual framework able to account for the role played by EOMs in the relations between countries, and to propose one specific driver for interference, which derives from the intertwining of democracy promotion and development policies.

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<sup>20</sup> European Union, *Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States of the One Part, and the European Community and its Member States, of the Other Part*, signed in Cotonou on 23 June 2000; Del Biondo, Karen, “EU Aid Conditionality in ACP Countries: Explaining Inconsistency in EU Sanctions Practice”, *Journal of Contemporary European Research*, vol. 7, no. 3, 2011, p. 395.

<sup>20</sup> Del Biondo, *op. cit.*, p. 395.

<sup>21</sup> Del Biondo, Karen, “Norms or Interests? Explaining Instrumental Variation in EU Democracy Promotion in Africa”, *Journal of Common Market Studies*, vol. 53, no. 2, 2015, pp. 237-254.

<sup>22</sup> Kelley, Judith, “Election Observers and Their Biases”, *Journal of Democracy*, vol. 21, no. 3, 2010, pp. 158-172.

<sup>23</sup> Kelley, “The Good, the Bad and the Ugly”, *op.cit.*, p. 13.

### *Aid effectiveness and the bureaucratic bias*

The EU has an interest in pursuing normative policies which reinforce the public image it wishes to project. As a norm promoter and member of the Development Assistance Committee of the Organisation for Economic Co-operation and Development, the EU was a major actor during the debates about ODA effectiveness which led to the 2005 Paris Declaration on Aid Effectiveness and to the 2008 Accra Agenda for Action.<sup>24</sup> Triggered by alarming studies about the fragmentation and ineffectiveness of much aid, these debates led the EU to promote aid effectiveness as a new norm.<sup>25</sup>

The EU raised expectations by taking an ambitious stance during these debates. To avoid generating an 'expectations-capability-gap', it now needs even more than other donors to present good results in terms of ODA effectiveness. In fact, success stories are needed by all donors, if only to legitimise the expense in the eyes of their own taxpayers, and in particular at times of public spending reduction.<sup>26</sup> A 'donor darling' is a recipient which presents such developmental performances that a form of reverse dependence appears, whereby the donor needs the recipient as a showcase of its good work. Essential features of a donor darling are stability so that the development policies undertaken are not compromised by too many hazards; and poverty so that ODA has a strong impact, generating success stories.<sup>27</sup> Many African regimes have occasionally drawn on this reversed dependence and used ODA to bargain in the same way as they use concessions in terms of political opening, trade or security (with participation in military operations) in order to secure the backing of their donors.<sup>28</sup>

First generations of EOMs were reportedly affected by a strong 'diplomatic bias': their conclusions were influenced by the foreign policy options of the democracy promoter. This bias is said to have been mostly replaced by a 'technocratic bias',

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<sup>24</sup> 2nd High level forum on aid effectiveness, *Paris Declaration on Aid Effectiveness: Ownership, harmonisation, alignment, results and mutual accountability*, high level forum on joint progress toward enhanced aid effectiveness: harmonization, alignment and results, Paris, 2005.

<sup>25</sup> Carbone, Maurizio, "Between EU Actorness and Aid Effectiveness: The Logics of EU Aid to Sub-Saharan Africa", *International Relations*, vol. 27, no. 3, 2013, pp. 341-355; Dearden, Stephen, "EU Development Policy: Delivering Aid Effectiveness", *Jean Monnet / Robert Schuman Paper Series*, vol. 8, no. 10, 2008, pp. 3-11.

<sup>26</sup> Hook, Steven, "Foreign Aid in Comparative Perspective: Regime Dynamics and Donor Interest", in Louis A. Picard, Robert Groelsema & Terry F. Buss (eds.), *Foreign Aid and Foreign Policy: Lessons for the Next Half Century*, New York, Sharpe, 2008, pp. 86-105.

<sup>27</sup> Fisher, Jonathan, "Managing Donor Perceptions: Contextualizing Uganda's 2007 Intervention in Somalia", *African Affairs*, vol. 111, no. 444, 2012, pp. 404-423.

<sup>28</sup> Fraser, Alastair & Lindsay Whitfield, "The Politics of Aid: African Strategies for Dealing with Donors", *Global Economic Governance Programme Working Papers*, Oxford, 2008.

when the standardisation of election monitoring led to a focus mostly on formal democratic structures.<sup>29</sup> This was of particular consequence considering that many African societies rely heavily on informal and traditional power networks in parallel to 'imported' standard institutions.<sup>30</sup> This trend seems to be largely contained through the increased preliminary work of EOMs to understand the context of the election.

Meanwhile, a development industry has emerged and institutionalised itself. Understood here in a broad sense, the EU's development industry is a nebula centred on the EU's own development bureaucracy and including member state bureaucracies; contractor development agencies and companies; non-governmental organisations; financial institutions; intergovernmental organisations; and all the practitioners, contractors and analysts who gravitate around them. A significant feature implied by the word 'industry' is the fact that it promotes actively the increase of its activities and the expansion of its structures.<sup>31</sup>

A bureaucratic bias is defined as a donor's conscious interest in preserving some bilateral relations which provide legitimising success stories, and the tendency for the development industry to campaign for perpetuation and expansion of its own activity, a process during which it finds support within the donor's decision-making apparatus.

The next section develops a framework to account for the range of impacts that an EOM can have on the host country – keeping in mind that the control over these impacts, depending whose interests they serve best, could motivate interferences with EOM independence.

### **Framework of analysis: impact of EOMs on the political marketplace**

This section proposes a framework for assessing the consequences of an EOM. Most importantly, they can distribute legitimacy in a political marketplace and thereby influence the odds and nature of political change, which is conceptualised as a risk for the EU and for the development industry.

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<sup>29</sup> Kohnert, Dirk, "Election Observation in Nigeria & Madagascar: Diplomatic vs. Technocratic Bias", *Review of African Political Economy*, vol. 31, no. 99, 2004, pp. 83-101.

<sup>30</sup> Médard, Jean-François, "L'État néo-patrimonial en Afrique noire", in Jean-François Médard (ed.), *États d'Afrique Noire: formations, mécanismes et crises*, Paris, Karthala, 1991.

<sup>31</sup> Ferguson, James, *The Anti-Politics Machine: Development, Depoliticisation, and Bureaucratic Power in Lesotho*, Cambridge, Cambridge University Press Archive, 1990.

### *EOMs as legitimacy traders*

EOMs do not deliver nor deny the classic 'free and fair' benchmark anymore.<sup>32</sup> Yet what domestic actors expect from an EOM is exactly such an endorsement or condemnation. As a result, EOM findings are frequently misquoted and reinterpreted to match this binary typology.

Actors in the political stage of the recipient countries typically disregard the fact that the EOMs act on a mandate distinct from the EU institutions. The visual communication (based on EU flags) of EOMs is confusingly similar to that of providers of EU aid. In many cases, EU ODA complements the recipient state's delivery of public service, which further contributes to turning (in popular perceptions) the EU, the EOM and the regime into complementary incarnations of power. As such, unless the EOM distances itself without ambiguity through some kind of values-based condemnation, it is likely to be – for domestic popular perceptions – yet another power in league with the regime in place.<sup>33</sup> At the scale of the whole host country, EOMs can have a more nuanced impact. But overall, this impact can always be framed on a continuum between legitimation and de-legitimation of regime and opposition(s).

In De Waal's framework of the political marketplace, political actors in a domestic marketplace compete for access to sources of income and power by trading their loyalty.<sup>34</sup> 'Political settlement' refers to the set of unwritten rules underlying a temporarily stable situation, and in particular: who owes allegiance or service (financial or otherwise) to whom. In many African settings, formal institutions exist alongside networks of patron-client relations, and political settlements are redefined frequently when the relative power of parties change. Alongside wealth, legitimacy is a decisive aspect of power.<sup>35</sup>

The original version of the 'political marketplace' framework is adapted to low-statehood areas studied by De Waal, where endemic violence is understood as bargaining rounds in a political marketplace of allegiances. Conversely, EOMs are sent to areas where sufficient levels of statehood are achieved for potentially credible election to take place. Since power conflicts are relatively pacified (a prerequisite for

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<sup>32</sup> Cordenillo & Ellis, *op. cit.*, p. 61.

<sup>33</sup> Interview with Long Term Observer 2.

<sup>34</sup> De Waal, Alex, "Mission Without End? Peacekeeping in the African Political Marketplace", *International Affairs*, vol. 85, no. 1, 2009, pp. 99-113.

<sup>35</sup> Khan, Mushtaq, *Political Settlements and the Governance of Growth-Enhancing Institutions*, SOAS, London, 2010, p. 6.

election), the main currency in this adapted version of the 'political marketplace' framework is *legitimacy*. Domestic actors collect legitimacy from competing traditional, neo-traditional and modern sources ranging from tribal customs to international law and religion.<sup>36</sup>

Backed by the principle of legality and the international norm of democracy, the ability of EOMs to condemn or endorse parts or all of an election allows them to trade international legitimacy: "International legitimation is important insofar as it reflects back on a government's domestic basis of legitimation and consent and thus ultimately on its ability to stay in power."<sup>37</sup> In this model, EOMs can virtually be game-changers, by either triggering political change or consolidating the *status quo* enough for it to hold.

By granting or denying legitimacy to other actors than the host government through their reports, EOMs can foster specific trends in the host country. For instance, in cases where 'democratic' and 'Islamist' forces compete with an authoritarian military power, EOMs can promote the opposition over the regime, but also 'democratic' forces over 'Islamist' ones. By any means, an EOM can distribute legitimacy to all actors in a political marketplace. But since the places of power are limited in number, the political marketplace is hardly anything but a 'zero-sum game': what matters the most is the *relative* legitimacy of actors compared to that of other actors.

With this 'political marketplace' framework in mind, it is possible to address the dilemma of stability versus political change in more detail.

#### *Political change as risk*

Drawing on game theory, foreign policy can be analysed through the lens of utility maximisation. A prerequisite to much of a state's interest (utility) in international relations is to entertain good relations with important partner countries, because this facilitates and improves cooperation on a multitude of issues. Conversely, a degradation of these relations decreases utility.

Risk is whatever is not certain in advance and which decreases the expectation of utility. The Realist school describes risk as the product of an event's damaging power by the probability that the event will happen.<sup>38</sup> Any policy aimed at reducing one of

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<sup>36</sup> Médard, *op. cit.*, p. 332.

<sup>37</sup> Finnemore & Sikkink, *op. cit.*, p. 903.

<sup>38</sup> Zinn, Jens O. (ed.), *Social Theories of Risk and Uncertainty – An introduction*, Oxford, Blackwell Publishing, 2008, p. 5.

these factors can be understood as risk management. Among these policies, *risk mitigation* is whatever focuses on reducing the harmfulness of the event, while *risk prevention* is whatever focuses on reducing the odds that the event will take place.

The notion of 'reputational risk to the state' sheds a light on the risks inherent to political change.<sup>39</sup> While unconditional backing of an autocratic regime may maximise short-term utility as it allows for closer ties in all domains, it also increases the risk inherent to revolutionary political change. Indeed, any new regime would be ill-disposed towards anyone regarded as an unconditional ally of the regime it just overthrew. In autocratic settings, political change is thus a significant risk for a third party, such as the EU.

#### *Democracy promotion as risk management*

This means that democracy promotion and EOMs in particular play a role in terms of risk management – notwithstanding their neutrality. In the overwhelming majority of cases, the elections studied here prolonged the mandate of incumbents. Political change might be a risk, but it is mostly a remote one.

If an EOM fully endorses an election and thus provides legitimacy to the incumbent autocracy, it decreases the relative legitimacy of opposition forces and the odds of political change. This can be described as risk prevention. It fits particularly in the 'developmental' narrative of democracy promotion, whereby stability is needed first to build elements contributing to democracy in the long run.<sup>40</sup> A likely consequence of this move is to undermine the capital of sympathy (the reputation) of the democracy promoter among opposition forces. In turn, a hypothetical political change bringing these forces to power would be all the more damaging to the EU. Therefore, a trade-off arises: in order to reduce the probability factor of the risk equation, the democracy promoter contributes to an increase in the harmfulness factor.

Conversely, if an EOM harshly condemns an election, it provides legitimacy to opposition forces while undermining the incumbent's legitimacy. The relative gains of the opposition forces mean that the likelihood that they will seize power is increased. However, in case opposition forces do overthrow the incumbent, they will to some extent owe it to the democracy promoter, which is likely to be favourable to their relations. Also, by promoting some opposition forces over others, the EOM shifts the

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<sup>39</sup> Power, Michael, *The Risk Management of Everything – Rethinking the Politics of Uncertainty*, London, Demos, 2004, p. 20.

<sup>40</sup> Carothers, *op. cit.*, p. 10.



balance of power among them, favouring those more likely to entertain good relations (or to share interests) with the democracy promoter once in power. As a result, this approach reduces the harmfulness of potential political change, which qualifies as risk mitigation. This approach fits in the ‘political democracy promotion’ narrative, whereby the democracy promoter supports some political forces over others, trusting that their progression is conducive to democracy. A trade-off appears, symmetrical to that of the developmental approach: in order to reduce the harmfulness factor in the risk equation, the democracy promoter contributes to an increase of the likelihood factor.

In order to identify fundamental dynamics at play with EOMs, this model overlooks much of the complexity of real-life situations. For one thing, so many factors influence legitimacy that the actual impact of an EOM is unlikely to be game-changing. But this impact is likely to stand somewhere on a continuum between options of legitimation and de-legitimation. Also, the trade-offs mentioned suggest that an actual, conscious choice is made, which requires a closer study of EOM procedures in the next section. At this point, it is enough to conclude that the EU can have a strong interest in seeing its EOMs take a stance rather than another.

#### *Risk to the EU, risk to the development industry*

To elaborate on the ‘reputational risk for the state’ argument, it has sometimes been stated that foreign policy towards developing countries tends to become ‘anti-foreign policy’: that foreign policy is “no longer framed by an interest-based instrumental relationship between the policy actor and the ostensible object of concern” but reflects instead “the desire to use the international sphere as an arena for grand policy statements of mission and purpose — from the ‘Global War on Terror’ to the desire to ‘Make Poverty History’ ”.<sup>41</sup>

This notion of anti-foreign policy can account for a non-reactive relation with developing countries: they are the “ostensible object of concern” but not the actual one. As such, they are invited to not interfere with the grand scheme of public diplomacy in which ODA is directed to them incidentally. Anything which would require a change in foreign policy, and any alteration of inter-state relations, is undesirable. In particular, a very negative EOM report logically calls for a suspension

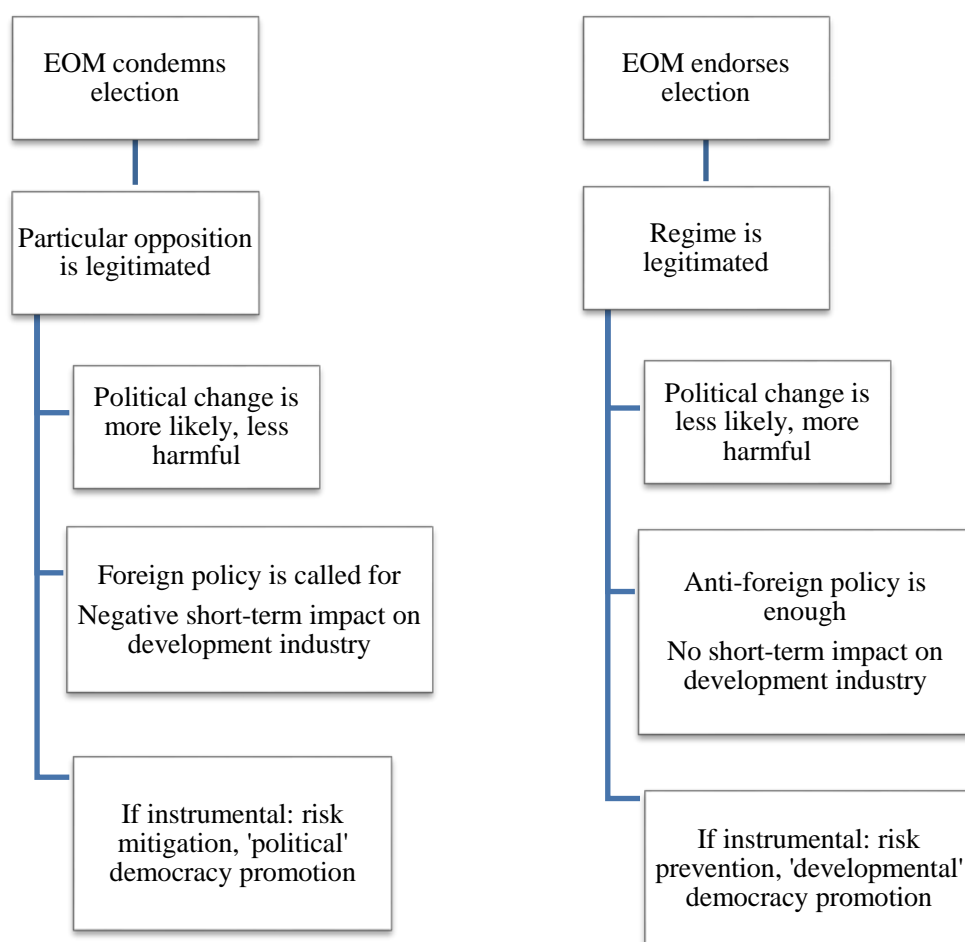
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<sup>41</sup> Chandler, David, “The Security–Development Nexus and the Rise of ‘Anti-Foreign Policy’ ”, *Journal of International Relations and Development*, vol. 10, no. 4, 2007, pp. 362-386.

of cooperation with the host regime and represents a disruption of anti-foreign policy: it is an interference of the ostensible object of the policy over the policy's course.

Figure 1 summarises the rationale and consequences of EOM 'endorsement' and 'condemnation' reactions to an election over the host country's political marketplace and over its diplomatic relations with the democracy promoter. Based on this model, many reasons can explain why a bureaucratic bias would lead the EU to lean towards a toning down of critique, in some particular cases of election in recipient countries.

Figure 1: Consequences of EOM positions on the political marketplace and on ODA



Source: compiled by the author.

The next section addresses the issue of whether the EU does have the means to influence an EOM in the direction of this bias.

### EOM independence in question

This section builds on the analytical framework developed previously, whereby EOMs can serve international agendas by distributing legitimacy to specific actors in the host country's political marketplace. The section addresses the procedures involved in any

EU EOM: the routines conducive to neutrality; specific glitches in these procedures; and practitioners' account of the extent and motivation for detected interferences which result from these glitches.

#### *Practical unfolding of an EU EOM*

The process leading to an EU EOM starts over a year ahead of the election, when the European External Action Service (EEAS) decides on launching a mission in case it is invited to do so by the government organising the election. The EEAS then negotiates a Memorandum of Understanding granting it a mandate to monitor all relevant aspects of the election. The mandate allows to monitor the implementation of a set of legal frameworks to which the host country is committed. Typically, these frameworks are United Nations Covenants and Conventions; regional and international treaties with human rights, transparency and good governance chapters; as well as the national law of the host country.<sup>42</sup>

Subsequently, the EEAS nominates the leading staff of the EOM, and in particular its head, the Chief Observer – a Member of the European Parliament (MEP). The EEAS also hires a contractor to provide field support and organises the recruitment process for the rest of the staff. Along with a few experts, the staff are mostly Short Term Observers and Long Term Observers, who are selected among rosters of applicants provided by their member state, ensuring a roughly equal representation of countries. Long Term Observers are sent to the host country for a period of six to eight weeks, while Short Term Observers are sent for a week or so. The former are assigned to the collection of data relevant to the assessment of the upcoming election and the latter mostly monitor polling stations on election days.<sup>43</sup>

The data is centralised in the EOM's office in the capital city of the host country, where the Chief Observer then releases a Preliminary Statement on Election Day or on the next day, summarising its provisional findings. Observers are repatriated, definitively or until the next phase of the election if applicable. The 'core staff' of experts prepares the Final Report, a detailed document of typically 60 pages, which presents all the findings and a number of recommendations addressed to the host government. This Final Report can be issued as late as half a year after the election itself. During the

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<sup>42</sup> Interview with EEAS Officer 1, Democracy and Electoral Observation Section, Brussels, 2016.

<sup>43</sup> European Union, *op. cit.*

whole process, the EOM communicates via press releases and statements, and it receives support from the EU Delegation in the host country.<sup>44</sup>

Independence and neutrality are interrelated: to the extent that the EU has foreign policy options which lead it to favour certain parties over others in the host country, an EOM must be independent in order to be neutral (that is, unbiased). On this basis, whatever support the EOM receives from the EU does not constitute a limit to its autonomy in collecting and releasing its findings.

The decision to send or not to send an EOM is already a political one. It is taken on grounds of opportunity, feasibility, risk and budgetary constraints by the Working Party on Human Rights of the Council of the EU (COHOM).<sup>45</sup> This means that the decision is essentially intergovernmental. The COHOM chooses between potential host countries, but among choices largely framed by the EEAS.<sup>46</sup> As such, the heart of the matter is the mission's independence vis-à-vis the EEAS.

#### *Standardisation and EOM agency – can an EOM decide what its findings are?*

The field of electoral observation has moved gradually from the 'free and fair' benchmark towards the collection of large amounts of technical data, which is then assessed against a large corpus of legal commitments.<sup>47</sup> In short, the main activity of EU EOMs is to tick boxes, at least at the level of Short Term Observers, the majority of EOM employees. Assessment grids used by Short Term Observers present a large number of closed and polar ('yes/no') questions. Built on such questions and on detailed guidelines, the process of data collection is standardised to a point where its results are replicable.<sup>48</sup>

While neutrality is guaranteed by this extreme standardisation at lower levels, a significant discretionary power remains at higher levels. The aggregation of results itself is still standardised, but the interpretation of aggregated results and the drafting of Preliminary Statements and Final Reports leave the Chief Observer and his/her EOM expert team the agency to frame the findings in one way or another. Substantive elements cannot be invented or omitted without failing the EOMs' mandate, but the wording – and also the disposition of paragraphs, the choice of characters, etc. – has

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<sup>44</sup> Interview with former Long Term Observer in EU EOMs 1, Bruges, 2016.

<sup>45</sup> Interview with EEAS Officer 1, Democracy and Electoral Observation Section, Brussels, 2016.

<sup>46</sup> Interview with European Commission Officer, EU Delegation to Ethiopia, Addis Ababa, 2015.

<sup>47</sup> Cordenillo & Elis, *op. cit.*, p. 62.

<sup>48</sup> Interview with former Long Term Observer in EU EOMs 1, Bruges, 2016.

a decisive impact on the overall impression conveyed by the text. Yet they are at the full discretion of the EOM's senior staff.

This means that the resulting report can be bent quite far in the direction of endorsement or condemnation of the election. Following the legitimacy-dealing patterns sketched in the previous section, top EOM staff can adopt of their own accord an approach of risk mitigation or of risk prevention. The question is whether the status of this staff guarantees that they do so in all independence.

### *Structural limits to independence*

The head of an EOM is always an elected MEP. This means that he or she holds legitimacy from a source distinct from the mandate of the EOM negotiated by the EEAS. The Chief Observer represents European citizens directly and is accountable before the electorate, rather than before the EEAS. This would seem to indicate that he or she does not need to heed or even hear demands from the EEAS.

Among the EU institutions, the European Parliament pursues a comparatively more normative approach. Also, to the extent that public scrutiny is higher for politicians than for bureaucrats, the Chief Observer can be expected to adopt a more value-based approach, which can be a guarantee of independence from interest-based interference.<sup>49</sup> Yet as was shown previously, a value-driven actor can take opposite decisions depending on the choice of a more 'developmental' or a more 'political' approach. As a result, the very independence of the Chief Observer can allow him or her to bend the findings in a way deemed more fitting to whichever development pathway is prioritised.<sup>50</sup>

The Chief Observers are appointed by the High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the Commission, often among MEPs who served as Chief Observers for other missions already. This has several potential consequences for their independence. First, they could be selected because their personality or political affiliation makes it likely that they would accept whichever adjustment of the findings the EEAS considers desirable. Second, they could be tempted to yield more easily to these demands to maximise their chance of getting appointed by the EEAS again. Third, some Chief Observers may have been nominated

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<sup>49</sup> Gawrich, Andrea, "The European Parliament in International Election Observation Missions (IEOMs): Division of Labour or Decreased Influence?", in Stelios Stavridis & Daniela Irrera (eds.), *The European Parliament and Its International Relations*, London, Routledge, 2015, p. 124.

<sup>50</sup> Interview with MEP and former EOM Chief Observer 1, Brussels, 2016.

because they have proven their flexibility in the field during previous EOMs. This last trend is cumulative: year after year, the number of MEPs who already served as Chief Observers increases, potentially giving the EEAS more choice and thus more candidates. For these three reasons, the discretionary nomination process of Chief Observers is conducive to interference.

Deputy Chief Observers are reported to play a crucial role in the whole process. They stay on the ground for the whole time, and dealing with practicalities allows them to grasp much about the local context, while Chief Observers fly back and forth and deal with the representation and political aspects of EOM direction on a part-time basis. Even though the last word on the reports is up to the Chief Observer, it is likely to be influenced by his or her Deputy. The Deputy Chief Observers are nominated by the Foreign Policy Instrument service.<sup>51</sup> This means that they are potentially even more likely to be selected on grounds of loyalty.

After exposing these structural limits to EOM independence, the next section builds on practitioners' accounts to provide examples of interferences with EOM neutrality.

*Evidence from practitioners: a routine systematically allowing for interference*<sup>52</sup>

This section describes a procedure which has been confirmed by all interviewees who are not employed by the EEAS or by the European Commission. It is then illustrated by two examples drawn from accounts of former Long Term Observers and/or Chief Observers.

Whenever the EOM is ready to submit a Preliminary Statement or Final Report, the rule is that before publication it is submitted to both the EEAS and the local EU Delegation, which may propose amendments. When no major interest is at stake, the amendments are mainly of a rather linguistic nature. However, this phase can also offer the occasion to change the substance and tone of the report. This means that the EEAS controls, and if considered necessary rewrites, the findings of supposedly independent missions. Still, the Chief Observer has the last word, and the EOM releases the report in the state that he or she chooses, with or without the suggested amendments. Yet as mentioned in the previous section, the nomination process of Chief Observers makes it structurally likely that they will take into account the demanded amendments. The following two

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<sup>51</sup> European Commission, *Handbook for European Union Election Observation*, 3<sup>rd</sup> edn., Brussels, 2016, p. 128.

<sup>52</sup> Interviews with Long Term Observers 1 and 2; MEPs and former EOM Chief Observers 1 and 2, 2016.

examples were drawn from practitioners' accounts for the purpose of illustration. It cannot be assumed that they are representative of all EU EOMs.

In a first reported case, the election at stake had taken a bad turn, with fraud and violence taking place massively.<sup>53</sup> After submitting the critical Preliminary Statement ready for release, the Chief Observer received overnight a version that was amended in a way that contradicted most of the EOM's findings. In the morning, she also received a phone call from the Prime Minister of the host country, who advocated for a milder report in an intimidating manner. According to the Chief Observer, the Prime Minister had certainly been directly warned about the nature of the proposed report by the European Commission, and namely by the Directorate General for Development Cooperation (DG DEVCO).

According to the Chief Observer, the injunction she received to tone down the critique was motivated by a 'bureaucratic mentality'. The intensive aid relationship between the EU and the host country would come to an end as a result of such a negative report as the one originally drafted. In reaction, in order to preserve the *status quo*, the 'aid industry' had lobbied for the EEAS to weigh on the draft, and also informed the head of the host state of the current content of the draft. The United Nations Development Programme and several large EU member states with important development programmes seem to have also attempted to lobby in favour of a less critical report.

Whether this 'developmental' approach was appropriate, in regard to the developmental and democratic performances of the host country, is irrelevant. What this example shows is that, if the Chief Observer's testimony is to be trusted, a community of actors which qualify together as the 'aid industry' commonly attempted to use the practice of EOM report revision by the EEAS, with the purpose of ensuring 'business as usual'. As such, this example is an illustration of the existence of a bureaucratic bias, whereby an EOM's neutrality can be limited by the interests and lobbying of the 'aid industry'.

A second example from a different country and EOM was reported by a Long Term Observer who himself collected the facts from higher EOM staff. In this case, the reason for toning down the critique was that the head of the EU Mission was finishing his mandate and had career prospects requiring him to boast co-responsibility in the

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<sup>53</sup> Interview with MEP and former Chief Observer 1.

improvement of human rights in the country. When the election turned sour and protests were violently repressed, he lobbied the EOM to downplay negative aspects of the election. This lobbying involved mobilising the 'aid industry', whose activities could have been undermined by a negative report. The Preliminary Statement and Final Report thus omitted some factual elements, but also rephrased the worst of the critique in ambiguous terms, presenting it in the middle of long paragraphs of rather positive considerations.<sup>54</sup>

Two examples gathered from two distinct sources do not prove the existence of a systematic breach of EOM independence. On the other hand, they illustrate the informal but systematic procedure of EEAS control of the content of the reports prior to release, and the fact that this procedure can lead to breaches of independence. They also illustrate that this procedure allows actors including the development industry to lobby for an interference with the EOM's findings, resulting in a bureaucratic bias.

The past decade saw a push for coherence between EU policies – especially the so-called Policy Coherence for Development. It allowed for a better coordination and complementarity between foreign and domestic policies, on the one hand, and development policies on the other hand.<sup>55</sup> Since the entry into force of the Lisbon Treaty, which enshrined Policy Coherence for Development as a goal for the EU, incoherence has become less likely because conflicting policies result in an arbitration at a higher level. Democracy promotion activities threatening a fruitful aid relationship represent such an example of incoherence, which is now arbitrated at the highest level of the EEAS – indeed, by the same people who decide who should lead EOMs. Yet the political economy of the European Commission means that some sectors can more successfully than others lobby for an arbitration favourable to their interests. It is less likely than before that the EU may finance a developing country while at the same time an EOM report suggests that ODA to that country should be interrupted. But it is not certain that this plays in favour of EOM independence, as changing a report can be an easier way to ensure coherence than changing aid policies. Paradoxically, increased coherence is thus another reason why uncounted instrumental breaches to EOM independence might have become more systematic.

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<sup>54</sup> Interview with Long Term Observer 1.

<sup>55</sup> Carbone, Maurizio, "International Development and the European Union's External Policies: Changing Contexts, Problematic Nexuses, Contested Partnerships", *Cambridge Review of International Affairs*, vol. 26, no. 3, 2013, pp. 483-496.



## Conclusion

The European Union is the second provider of Election Observation Missions. More than other providers, the EU pursues foreign policy options, which can be described as normative and/or self-interested. This means that EOMs can play a part in foreign policy strategies, by their mere presence or through the results they present. This raises the question of whether EU EOMs can be subject to interferences, that is, breaches of their independence from the EU's side to influence their results. What are the mechanisms allowing these interferences, and the reasons underlying them?

In the analytical framework developed, the EOMs' work was understood as the exercise of normative power to distribute legitimacy, which favours parties over others in a political conflict, and fosters dynamics, for instance, of political change or stability. While these effects can be a direct result of the EOM's mandate, they can potentially also be the result of a bending of the mission's findings, either for internal reasons or due to external interference. The goal can be to mitigate risks of political change by distancing oneself from the regime, or on the contrary to prevent political change by consolidating the regime in place. Many other configurations can arise, in which re-orienting the findings of an EOM in some ways can qualify as a form of risk management for the EU and/or its sectoral interests. Of all logically possible reasons for interference, this paper has conceptualised and documented one: the bureaucratic bias which leads a democracy promoter to treat leaders in important recipients of its development assistance favourably.

The tone and formulations adopted in EOM reports are largely a matter at the discretion of the EOM's executive staff. They can reflect a sense of the EU's interest; clear directions given by the EEAS appointing them; or none of these. The most crucial part of the process takes place once the report is written and is submitted to the EEAS for comments. According to several of the eight interviews conducted, this is when most of the interference takes place.

The importance and weight of the development industry results in the EU institutions transmitting a bureaucratic bias to EU EOMs. A political interference emanating from the EEAS in some cases infringes on EOM independence to protect the interest in the *status quo* of the development industry. This account is a pessimistic contribution to debates surrounding the 'mission impossible' of the EU's quest for coherence between policies: whenever EOMs and development aid collide, policies advocated by a stronger coalition seem likely to override the less well-advocated policy. Nevertheless,

a 'democracy promotion industry' now exists, far less powerful than the development industry, but in the long run susceptible to limit the subordination of electoral observation to sectoral interests.

The nature of the reverted donor-recipient dependency which underlies the diluting of critique would deserve more attention. Further research could question the frequency of the interference observed, the statistical correlation between uncritical reports and ODA resulting from the bureaucratic bias and other drivers for interference, in particular economic and strategic reasons.

The flexibility brought to the EU by the maintaining of a form of control over its missions, while also claiming that they act in full independence, is certainly an asset. But it also means that the EU collects the benefits coming from two incompatible stances, which can be dangerous in particular considering the spate of whistleblowers and more generally the growing uncertainty about confidentiality. Both the effectiveness and the credibility of the EU's democracy promotion could be damaged, as well as local situations in host countries. For example, the documented distortion of EOM findings could be a strong argument for an election's 'bad loser' to reject the election's outcome. Benefits might outweigh these risks, but reducing the latter might be a better strategy.

In order not to undermine one of its privileged identity markers, the EU should put an end to the practice of amending the EOM Preliminary Statements and Final Reports before they are released. It is but a minor constraint to ensure that each EOM's staff includes enough native speakers of the reports' language(s) to make external linguistic revision superfluous – while other types of revision can hardly be justified. The Chief Observers and their staff have to be trusted for their good judgement once given a mandate granting them independence. Legitimate EU red lines – and in particular the 'do-no-harm' principle so necessary to a normative leader – can still be discussed between the EEAS and the observers before or during the mission, but through discrete channels and without committing the blatant interference of rewriting a supposedly independent report.

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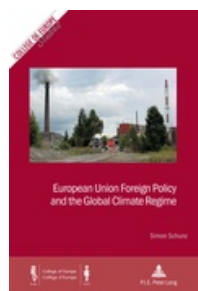
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