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ACRONYMS

AA	Association Agreement
AfDB	African Development Bank
AP	Action Plan
BTI	Bertelsmann Transformation Index
CFSP	Common Foreign and Security Policy
CoE	Council of Europe
CSP	Country Strategy Paper
DCFTA	Deep and Comprehensive Free Trade Agreement
EEAS	European External Action Service
EC	European Commission
EIDHR I	European Initiative for Democracy and Human Rights
EIDHR II	European Instrument for Democracy and Human Rights
EMP	Euro-Mediterranean Partnership
ENI	European Neighborhood Instrument
ENP	European Neighborhood Policy
ENPI	European Neighborhood Policy Instrument
EU	European Union
FDI	Foreign Direct Investment
GBS	General Budget Support
GGDC	Good Governance and Development Contracts
IMF	International Monetary Fund
INLUCC	Instance National de Lutte Contre la Corruption
MEDA	Mesures D'Accompagnement
MENA	Middle East and North Africa
NCA	National Constituent Assembly
NIP	National Indicative Programme
OECD	Organization for Economic Cooperation and Development
OVI	Objectively Verifiable Indicators
PAF	Performance Assessment Framework
PAR	Programme d'appui à la reliaance
PFM	Public Financial Management
RCD	Rassemblement Constitutionnel Démocratique
SNAC	South Neighborhood Anti-Corruption
SBC	State Building Contract
TI	Transparency International
UN	United Nations
WB	World Bank

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I. INTRODUCTION¹

The relationship between Tunisia and the European Union (EU) has traditionally been a close one. Economic cooperation was established in 1976, and the country was the first in the Mediterranean region to sign an Association Agreement (AA) with the EU in the context of the Barcelona Process, in 1995. Part of the Southern Mediterranean neighbourhood of the EU, Tunisia was one of five countries in the Middle East and North Africa (MENA) region to adopt a European Neighbourhood Policy (ENP) Action Plan in 2005 – as well as one of the first states to enter into a free trade area with the EU in 2008 (European Parliament 2010). During the majority of this time, Tunisia was ruled by a strongly personalist regime: first under founding President Habib Bourgiba, and then by his successor President Zine El Abidine Ben Ali in 1987.

Long hailed as a model student of economic development, Tunisia under Ben Ali experienced an ‘economic miracle’ in the 1990s, one supported and praised by such major international donors as the EU, the World Bank and the International Monetary Fund (IMF). This discourse relied upon the combination of:

[...] on the one hand, the extent of growth, economic diversification and the ability to create jobs, the increase in exports, the way the country could attract foreign investment and finance, and an improvement in the living standards and well-being of the population; on the other, the ability to reform and stabilize the country in macro-economic terms, to undertake liberalization, as well as a variety of sector-based restructurings (Hibou, Meddeb and Hamid 2011, 12).

Thus Tunisia’s commitment to economic progress, as well as its continuing stability in a region seemingly torn apart by Islamist insurgency and economic turmoil, made it a reliable partner to the EU – that despite the autocratic nature of political rule and increasing levels of repression there. The EU on the other hand has been – and continues to be – an important economic partner for Tunisia, with 78% of that country’s exports going to, and 65% of imports coming from the EU. It is responsible for financial flows that include 83% of tourism revenue, 73% of foreign direct investment (FDI), remittances and not least tourism and provides 90% of income transfers to Tunisia (Hibou, Meddeb, and Hamid 2011, 66).

Ben Ali’s sudden departure in 2011 following nationwide protests for social justice and political freedom forced the EU to rethink and adapt its previous strategy, which had been based on security and stability in the region. The events variously called the ‘Sidi Bouzid’ and ‘Jasmine Revolution’ kicked off the region-wide phenomenon that was the ‘Arab spring’, with uprisings in Egypt, Yemen, Libya and Syria following suit. Initial hopes for the democratisation of the region were quickly put to rest, however. With persistent instability in Libya and Yemen, civil war in Syria and the re-establishment of authoritarianism in Egypt following a brief democratic interlude, Tunisia seems to have emerged as the only successful case of democratic transition so far. In the wake of the 2011 uprising the country witnessed the multiplication of political parties and civil

¹ Research assistance for this report was provided by Stefan Goetzke, and Salemme Alounini

society actors, the first democratic parliamentary and presidential elections – which resulted in the coming to power of the current Nidaa Tounes government, under President Mohamed Beji Caid Essebsi – as well as the penning of a new constitution. But the country has also seen political polarisation, a number of terrorist attacks and a succession of different interim governments prior to the first elections, which has made political processes cumbersome and at times instable. Tunisia has also been plagued by persistent economic problems that include high unemployment and ongoing regional disparities – two of the main drivers of the 2011 uprising.

The EU meanwhile has tried to learn from past mistakes and accompany the country's at times rocky transition with financial and technical assistance so as to bolster democratic norms and procedures, good governance and economic recovery. This report will explore the EU's attempts at promoting good governance and anti-corruption in Tunisia in the years between 2007 and 2013. It therefore traces the EU's bilateral (which means only of the EU institutions themselves, not EU member states) policies and their potential impact both during the time of authoritarian rule under former President Ben Ali as well as during the turbulent period that followed thereafter. To this end, Section II details the main instruments of cooperation, amounts of assistance as well as the development of conditionalities. Section III outlines the main features of the Ben Ali regime prior to the uprising of 2010-2011, as well as thereafter during the transitional period. Section IV provides a detailed analysis of the impact EU assistance had on governance in Tunisia more generally, as well as on the capacities of local actors. Section V provides, finally, recommendations derived from interviews with policy experts and key stakeholders.

II. STATE OF EU CONDITIONALITY AND DEVELOPMENT ASSISTANCE

1. Historical development of the EU–Tunisia relationship

Whereas historically the EU's development aid revolved around its economic variety, by the 1990s it had become clear that the assumption that economic development would automatically translate into political development at a later stage had been a mistaken one. At the same time, the end of the Cold War and the fall of communist dictatorships on its eastern borders necessitated that the EU restructure its development aid. Within the context of the Barcelona process, launched in 1995 between the EU and 12 Mediterranean partners, the Euro-Mediterranean Partnership (EMP) was introduced. Its objectives relating to trade and economic reform were complemented by ones regarding the promotion of political reform too, in order to create a 'region of peace, security and shared prosperity'.² The EMP included the commitment on the part of all Southern partner countries to further democracy and the rule of law, and to respect human rights as laid down by the United Nations Charter and the Universal Declaration

² http://eeas.europa.eu/euromed/barcelona_en.htm

of Human Rights (Del Sarto and Schumacher 2011). The multi-lateral EMP framework was complemented by the bilateral AA, concluded between the EU and Tunisia in 1995. They are legally binding and centred on economic relations and development aid. They also contain provisions on security cooperation, migration, justice as well as social and cultural cooperation. But beyond that human rights and democracy clauses are also drawn up as essential elements of these agreements. They were supposed to be implemented in Tunisia by the establishment of a human rights subcommittee, as well as by the insertion of a general clause cautioning that the failure to uphold human rights and democratic principles may give rise to appropriate retaliatory measures on the part of the EU. This de facto negative conditionality has never been applied in practice, however (Wouters and Duquet 2013, 235-236).

1.1 The European Neighbourhood Policy

The EMP by all accounts cannot be considered to have been a success. Ten years after the Barcelona declaration, the ENP was called into being, in 2005. While it was technically intended to complement and not replace the EMP, which continued to exist in a later incarnation as the Union for the Mediterranean (UfM), the ENP de facto became the main regional framework guiding relations between the EU and its southern neighbours. The ENP was not the result of multi-lateral negotiations, however, but was rather designed and implemented by Brussels in the wake of EU enlargement. It was initiated so as to extend the European market and the *acquis communautaire*, without offering, however, the option of full membership (Schimmelfennig 2012). It encompassed not only the Eastern neighbours as originally envisioned, but also those to the south – creating a coherent framework within which to deal with all neighbouring countries for whom accession to the EU was not an option, with them thus existing instead as a ‘ring of friends’ to the east and the south.

It was meant to centre on a combination of positive conditionality, which exchanged mostly economic rewards for reform, of increased differentiation that allowed an approach more tailored to the respective partner country and of benchmarking. The ENP also became more explicit with regard to ‘shared values’ such as democracy, the rule of law and respect for human rights. Becoming part of this ring of friends was thus to depend on the degree to which partner countries showed respect for these values and undertook political reforms to those ends:

In other words, this ‘everything-but-institutions’ approach, as former European Commission President Prodi coined it, promises reform-minded countries a substantial stake in the EU’s internal market, and finally the integration into its four freedoms, in return for compliance with the

commitment to shared values and progress in sector- and area-specific reform areas (Del Sarto and Schumacher 2011, 933).³

Within this regional framework, ENP Action Plans were bilaterally negotiated with each partner country in order to translate the general ENP provisions into concrete measures at the country level – ‘resulting in *differentiated bilateralism*’ (Wouters and Duquet 2013, 237, italics in the original). These are followed up on by the annual progress reports made by the Commission. These Action Plans, while politically significant, are not legally binding in the same way that the AAs are – the latter remain the legal cornerstone of bilateral relations. This means in practice that no suspension of relations can take place for breaching the commitments agreed upon in the ENP Action Plans, but only for violation of the AAs. In contrast to the ENP, they contain a broader definition of these shared values – particularly where anti-corruption commitments are concerned (U4 2009, 5).

The EU–Tunisia Action Plan,⁴ prepared in 2004 and valid up until being replaced by a new version in 2014, offered among other things:

[...] to grant additional financial assistance to Tunisia to support implementation of the Association Agreement and of the operations identified in the Action Plan, in particular to enhance the economy’s ability to withstand competitive pressures and to strengthen institutional capacity as well as investments and infrastructure. Furthermore, the Commission will be proposing a new European Neighbourhood and Partnership Instrument (ENPI), which will also cover the key issue of cross-border and transnational cooperation between Tunisia and the EU so as to promote integration and economic and social cohesion and lessen development gaps between regions (Tunisia Action Plan 2004, 2).

It leaned heavily towards economic and security cooperation, but political dialogue and reforms in the area of ‘democracy and the rule of law’ and ‘respect for human rights and fundamental freedoms’ were also among the priority areas listed. ‘Good governance’ is mentioned only once as a shared value upon which the Action Plan’s aims are based; it is not, however, further defined. Other mutually accepted values according to the Action Plan are ‘democracy, the rule of law, good governance, respect for human rights, market economics, free trade, sustainable development, poverty alleviation and the strengthening of political, economic, social and institutional reforms’ (AP 2004, 1).

Under the priority of democracy and the rule of law, the Action Plan intended to ‘strengthen institutions guaranteeing democracy and the rule of law’ (AP 2004, 4). Among other ways, this was to be done by increasing participation, further developing civil society, continuing with support for political parties and by setting up the abovementioned subcommittee on democracy

³ According to these two authors, these four freedoms consist of the free movement of goods, people, services and capital.

⁴ http://eeas.europa.eu/enp/pdf/pdf/action_plans/tunisia_enp_ap_final_en.pdf

and the rule of law in the short term – while in the medium term supporting administrative reform, especially with respect to transparency. Regarding the rule of law, the independence and efficiency of the judiciary as well as of the penal system are singled out (AP 2004, 4). As Del Sarto and Schumacher (2011) point out, nowhere in these vaguely worded objectives – which contain concepts that have neither been precisely defined nor seemingly used consistently across the different Action Plans – does the Action Plan allude to the authoritarian and highly repressive nature of the Tunisian political regime at the time, or indeed include measures to counter these tendencies. This is true despite the slightly more frank analysis and language of the Tunisia country reports that were drafted by the Commission in preparation of the Action Plan, which discussed the problematic aspects of political rule and lack of fundamental freedoms there (Del Sarto and Schumacher 2011, 941). The Action Plan itself does not discuss concrete timetables or benchmarks for assessing progress in these priority areas either.

Despite the overall vagueness of the Action Plan and its reluctance to define the basic concepts upon which its very priorities are based, further measures intended to strengthen good governance can still be identified. They are not, however, explicitly stipulated as being such measures, leaning heavily instead towards existing as more technical aspects of good governance. The latter itself is defined by the EU as: ‘The transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development, in the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law’ (EC 2007a, 58). It groups them into six clusters, among them ‘public administration reform, management of public finances and civil service reform’. Further to this are:

(i) support [given] to democratisation, including support [given] to electoral processes and electoral observation; (ii) the promotion and protection of human rights (as defined in the international covenants and conventions, respects of norms and non-discrimination); (iii) the reinforcement of the rule of law and the administration of justice (as to the legal framework, legal dispute mechanisms, access to justice, et cetera); (iv) the enhancement of the role of civil society and its capacity building (as a partner in public policy making and implementation); and, (v) decentralisation and local government reform/capacity building (to promote and institutionalise participation at the local level, with a focus on local power structures and resources). (EC 2007a, 58)

Prior to the Arab spring, the EU had arguably focused its attention on the more technical components of administrative reform – especially where it related to economic governance. As such, scattered throughout the Action Plan were important provisions regarding public financial management (PFM) – covering such areas as public procurement, auditing and internal control (pp. 16–17). These measures were often embedded within General Budget Support (GBS) programmes in Tunisia, which were – and still now continue to be – the most important aid modality in the country.

1.2 The European Neighbourhood Policy Instrument 2007–2010

The ENPI is the EU's financial instrument for providing assistance to the countries of the neighbourhood. In 2007 it replaced the previous instrument, MEDA (Mesures d'accompagnement), for the Southern neighbourhood. It provides funding through national, regional and cross-border cooperation, as well as thematic programmes. Priorities for financial assistance are identified in general through Country Strategy Papers (CSPs), National Indicative Programmes (NIPs) and often Annual Action Programmes (AAPs) too.⁵

For the period under consideration, 2007–2013, the CSP established the strategic framework for EU–Tunisia cooperation under the ENPI. The operational response for the period 2007–2010 was inscribed in the respective NIP, which laid down the objectives, expected results and conditions to be met in the priority areas of cooperation (ENPI Tunisia CSP 2007–2013 and NIP 2007–2010). These documents were negotiated bilaterally with Tunisia, and according to the CSP are reflective of its national priorities.

Funding for the period 2007–2013 was programmed at €300 million. Table 1 below illustrates the funding per year according to the amount (in million €) programmed, committed and disbursed.

Table 1: ENPI Funding 2007–2013 (in million €)

Tunisia	2007	2008	2009	2010	2011	2012	2013
Programmed	73	73	77	77	80	80	80
Committed	103	73	77	77	180	130	135
Disbursed	97.9	56	74.4	68.5	114.3	145.2	80.3

Source: Table adapted from http://eeas.europa.eu/enp/pdf/2014/stats/statistical_annex_2014.pdf

The CSP identified the 'serious difficulties in implementing third-generation MEDA projects⁶ and the problems surrounding the recent launch of the justice support programme' as the reason to focus on economic governance instead. The NIP (2007–2013) concentrated thus on: (i) economic governance, competitiveness and convergence with the EU; (ii) human resources and improvements in employability; and, (iii) sustainable development. Table 2 below shows the distribution of funds to the different priority areas in concrete terms.

⁵ <http://enpi-programming.eu/wcm/en/what-is-enpi-programming/general-introduction.html>

⁶ Projects covering good governance, the rule of law and civil society, see: http://eeas.europa.eu/tunisia/csp/nip_05_06_en.pdf. Among them were a media project that experienced difficulty with its implementation, a justice project that was slowed down by lengthy negotiations and a NGO project that was cancelled.

Table 2: EU–Tunisia Bilateral Cooperation 2007–2010 (in million €)⁷

	2007	2008	2009	2010	Total
Economic governance and convergence towards the EU					
Programme for objective-based budgeting (PAGBO)	30				30
Support to job creation and employment					
Programme to support education/training, higher education and employment (PEFESE)			65		65
Programme for research and innovation (PASRI)			12		12
Social sector and environment					
Programme for environment and energy (PEE)	33				33
Support to the Tunisian chemical group (EIB – interest subsidy)	10				10
Programme to support water resources management (PAPS EAU)				57	57
Total	76		77	57	207

Source: <http://ec.europa.eu/enlargement/neighbourhood/pdf/key-documents/tunisia/20150630-tunisia-financial-assistance-fiche.pdf>

The priorities of the CSPs and the NIPs are negotiated in tandem with the Tunisian government, and are thus aligned with the government's own priorities as outlined in their main programming tool: the five-year economic and social development plan. The one in question here was the Eleventh Plan, covering the period 2007–2011. In addition, the Presidential Programme for the period 2004–2009, as well as the works still in progress from the Tenth Plan, were drawn upon to help define the Tunisian government's new priorities. These mostly revolve around economic issues such as employment policy, sustainable development, regional and international integration, human resources and, last but not least, the 'consolidation of good governance and transparency and the corresponding legislative, institutional and administrative reforms' (CSP 2007-2013). The CSP noted that:

[...] they are indicated as important factors in growth and development but do not appear to be specific priorities of the guidance note. The main reforms identified are: (i) the adoption of modern, efficient management methods within the administration, (ii) the use of new technology and IT, (iii) the ongoing reform of the judicial system, (iv) the introduction of goal-oriented budget management and (v) those to reinforce devolution and decentralisation (2007–2013, 3).

The CSP (2007–2013) acknowledged the promotion of good governance as a medium-term challenge, and the fact that no discernible progress has yet been achieved in this regard. While

⁷ The programmes mentioned in Table 2 are only those ones that are currently still ongoing. Other programmes were adopted between 2007 and 2010, but have by now already been completed.

its effects on transparency and accountability are noted, the problem is subsequently framed as being mostly related rather to its potential effects on economic and social progress. Even though this CSP identified ‘political reforms concerning democracy and human rights, the rule of law, sound institutional governance’ as a strategic priority derived from the AA and from the ENP Action Plan, this was nevertheless not subsequently reflected in the NIP (2007–2010). The economic governance priority in this NIP – focused on supporting ‘(i) the extension of the State’s reform programme to include governance, public finances and administrative reform and (ii) the deepening of structural reforms’ – is embedded in the budget aid modality, with the related conditions thereof. In concrete terms, it aimed at:

- A balanced macro-economic framework that is conducive to growth and economic integration with the EU
- Modern, transparent, efficient and target-based planning and management of public finances, as well as the consolidation of the regulatory framework for auditing
- An increase in private, domestic and foreign investment (in terms of both overall value and as a percentage of total investment)
- A simplified, transparent and incentive-based institutional, legal and regulatory system for private sector development, one that promotes alignment with the EU
- A sound, efficient and effective financial sector that meets the needs of business operators, including SMEs and micro-enterprises (NIP 2007–2010, 31)

The Action Plan also positions the fight against corruption under the priority ‘combatting organised crime’, which specifies the EU’s intention to ‘intensify the fight against corruption’ by:

- Exchanging information on EU and Tunisian legislation and strategies, and the implementation of international instruments
- Signing the 2003 UN Convention against Corruption and applying the measures therein
- Exchanging best practices on combating corruption, and developing cooperation in the field (AP 2004, 21)

However this priority area does not appear in either the CSP (2007–2013) or in the NIP (2007–2010). While good governance and anti-corruption measures in the technical sense were part of budget support within the economic governance priority, as outlined above, no separate programme supporting good governance and anti-corruption practices ever existed during that time period.⁸

1.3 The European Neighbourhood Policy Instrument 2011–2013

The events that kicked off the Arab Spring in Tunisia and removed one of the region’s longest standing dictatorships from power threw not only the domestic political scene but also the donor landscape into disarray. The EU – having been engaged in extensive financial and technical cooperation with the previous regime, despite its poor human rights and political liberties track

⁸ Interview with a member of the temporary Anti-Corruption Commission (INLUCC) (held 21.12.2015).

records (ones that had increasingly deteriorated in the preceding decade) – was now forced to reverse its previous approach. These endeavours were further complicated by the fact that, in the wake of the Lisbon Treaty, the EU was in the process of redesigning its own external representation. The newly created European External Action Service (EEAS) had been launched only in December 2010, a matter of mere weeks before the removal of President Ben Ali.

This resulted in what has been described as a ‘cacophonous start’ (Balfour 2012, 11), with a wide variety of voices from different EU institutions and member states adding their own proposals and opinions to the mix.⁹ The EU also responded to this turn of events, not only by acknowledging past mistakes and vowing a new humility in listening without imposing (Balfour 2012, 11) but also by launching a number of immediate measures – as well as foreign policy instruments. Immediately after Ben Ali’s fall, the EU doubled its aid to Tunisia from the previously programmed €80 million to €160 million in 2011 alone (Youngs 2015). Overall the aid budget to Tunisia for the period 2011–2013 was almost doubled, reaching some €445 million. Several new budget lines and instruments were introduced, most important among them three cross-cutting instruments, which were supposed to define the EU’s strategic outlook in the region. These were: (i) the Joint Communication of the High Representative and the Commission on ‘A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean’¹⁰ from March 2011; (ii) the Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on ‘A New Response to a Changing Neighbourhood’¹¹; and, (iii) the SPRING programme (Support for Partnership, Reform and Inclusive Growth)¹² – existing ‘as a strategic and cross-cutting financial instrument to support democratic transformation, institution building and economic growth’ (Wouters and Duquet 2013, 238).

- (i) ‘A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean’¹³

Introducing fundamental changes to the EU’s relationship with its Southern partner countries, this instrument outlines:

An incentive-based approach based on more differentiation (‘more for more’): those that go further and faster with reforms will be able to count on greater support from the EU. Support will be re-allocated or re-focused for those who stall or retrench on agreed reform plans. More concretely, closer political co-operation means advancing towards higher standards of human rights and governance based on a set of minimum benchmarks against which performance will be assessed. A commitment to adequately monitored, free and fair elections should be the entry

⁹ Interview with EU expert (held 03.12.2015).

¹⁰ http://eeas.europa.eu/euromed/docs/com2011_200_en.pdf

¹¹ http://eeas.europa.eu/enp/pdf/pdf/com_11_303_en.pdf

¹² http://ec.europa.eu/europeaid/documents/aap/2011/af_aap-spe_2011_enpi-s.pdf

¹³ http://eeas.europa.eu/euromed/docs/com2011_200_en.pdf

qualification for the Partnership. It also means closer co-operation in the context of the Common Foreign and Security Policy (CFSP), and more joint work in international fora on issues of common interest (2011, 5).

The instrument builds on three elements: support for democratic transformation and institution building; a stronger partnership with the people, including more civil society support; and, sustainable and inclusive growth and economic development (p. 3). With respect to democracy and institution building, emphasis is placed on judicial and administrative reform so as to enhance transparency and fight corruption. Further, a Civil Society Neighbourhood Facility is introduced – in order to provide support for civil society capacity building and to enhance their ability to monitor and participate in the political process. Attention quickly shifts to issues of security, however, with the discussion of mobility partnerships:

[In exchange for] increased mobility, partners must be ready to undertake increasing capacity building and provide appropriate financial support for border management, preventing and fighting against irregular migration and trafficking in human beings, including through enhanced maritime surveillance; the return of irregular migrants (return arrangements and re-admission agreements) and for enhancing the capacity and abilities of law enforcement authorities to effectively fight trans-border organised crime and corruption (p. 7).

The remainder of the instrument discusses measures relating to economic development, trade and sectoral cooperation.

As introduced by then High Representative of the Union for Foreign Affairs and Security Policy Catherine Ashton in the run up to the strategy's finalisation, the EU's future support to the Southern neighbourhood can be subsumed under the so-called 'three Ms – money, markets and mobility':

Money – resources that can go into the region to help support the transition to democracy, the support for civil society and of course the economic needs of countries. **Market access** – the importance of making sure that we give advantages in trade, and that the people can take advantage of that by being able to export and import properly. **Mobility** – the ability of people to move around, for business people to be able to conduct business more effectively.¹⁴

(ii) 'A New Response to a Changing Neighbourhood'

This second strategy, published just months after the initial 'Partnership for Democracy and Shared Prosperity with the Southern Mediterranean', expands on the topics outlined above in an attempt to modify the ENP so as to suit the changing neighbourhood context. It introduces the concept of 'deep democracy', which, while not clearly defined, seems to include the fight against corruption and reforms in the security and law enforcement sectors – in addition to the more

¹⁴ <http://www.enpi-info.eu/medportal/news/latest/24485/Money,-Market-access,-Mobility-%E2%80%93-three-Ms-to-underpin-EU-support-to-its-southern-neighbours>

standard features (p. 3). It reiterates the EU's commitment to a conditional approach that differentiates according to the more for more logic – with more progress meaning more EU support, and less progress the potential reduction of funding. It also introduces the European Endowment for Democracy as a new instrument to increase the influence and consistency of EU institutions, member states and political foundations in the field of democracy promotion (p. 4). Beyond that, the focus clearly remains on economic and security cooperation. The need for more precise benchmarks and a focus on a limited number of medium- and short-term priorities is again emphasised (p. 18).

(iii) The SPRING programme (Support for Partnership, Reform and Inclusive Growth)

The SPRING programme is part of the EU's positive response to countries willing to embark on reforms as introduced in the 'Partnership for Democracy and Shared Prosperity'. It was designed to make funds available to these countries 'by supporting initiatives providing financial and technical support to help implement the associated reforms'.¹⁵ The SPRING programme focused its activities mainly on support related to the priority areas of democratic transformation and institution building, as well as sustainable and inclusive growth and economic development. Allocation is dependent on several criteria being met, including a positive assessment of progress made in building deep democracy – relying on ENP progress reports, on the EU's own evaluation of developments and on the indicators offered by different international organisations.

Tunisia was the main beneficiary of the SPRING programme, receiving a total of €155 million in the period 2011–2013 (Financial Assistance Fiche 2007–2013):

Table 3: The SPRING Programme for the period 2011–2013 (in million €)

Programme	Amount
Top-up programmes of Economic Recovery (PAR 1 and 3) ¹⁶	55
Support to the Association Agreement and to the Transition (parts 1 and 2)	25
Civil society capacity building programme	7
Programme of support to the justice sector (PARJ)	25
Programme of support to the integration of popular neighbourhoods (PPIQP)	33
ENPARD	10

Source: Table adapted from http://eeas.europa.eu/enp/pdf/2014/stats/statistical_annex_2014.pdf

The SPRING programme was replaced by new 'umbrella funds' in 2014, under the European Neighborhood Instrument (ENI) 2014–2020 (Duquet and Wouters, 232).

¹⁵ http://ec.europa.eu/europeaid/documents/aap/2011/af_aap-spe_2011_enpi-s.pdf (p. 3).

¹⁶ Joint Budget Support by the EU, the World Bank and the African Development Bank.

In concrete terms, the three policy instruments as applied to Tunisia led to an increase in funding and a change in the composition of funding priorities:

Table 4: Funding Priorities

Priorities	Planned	Actual
Employment and social protection	20–27%	17.5%
Integration support programme II	35–38%	0%
Governance and justice	6–8%	0%
Business competitiveness (industry and services)	32–35%	85.5%

Source: Table adapted from: http://eeas.europa.eu/enp/pdf/2014/stats/statistical_annex_2014.pdf

In addition to the SPRING programme, funding was also channelled through the European Instrument for Democracy and Human Rights (EIDHR) II as well as through various thematic programmes – among them the newly introduced Civil Society Neighbourhood Facility. EIDHR I had been created in 1994 at the behest of the European Parliament so as to have an independent budget line, operated from Brussels, that would allow the body to ‘directly address non-governmental actors [...] without governmental consent’ (Bicchi and Voltolini 2013, 83). Tunisia received such funding only once, before it was ruled ineligible in the period 2007–2010. In 2011 it finally issued a call in the areas ‘(a) transparency and feasibility of democratic practices and democratisation processes and (b) independent media’ (Bicchi and Voltolini 2013, 93).

Table 5: Funding through Thematic Programmes 2011–2013 (EUR)

	2011	2012	2013
Civil Society Facility	1,400,000	1,000,000	n/a
Instrument for Nuclear Safety Cooperation	n/a	n/a	n/a
European Instrument for Democracy and Human Rights	5,200,000	1,000,000	1,000,000
Neighbourhood Investment Facility	800,000	n/a	15,000,000
Non-State Actors and Local Authorities	1,200,000	300,000	n/a
Instrument for Stability	2,000,000	305,000	n/a
Migration and Asylum	n/a	1,445,293	n/a

Source: <http://ec.europa.eu/enlargement/neighbourhood/pdf/key-documents/tunisia/20150630-tunisia-financial-assistance-fiche.pdf>

The bulk of aid, however, was channelled through budget support as part of multi-donor aid packages called 'Programme d'appui à la reliance' (PAR). Operated in cooperation with the World Bank and the African Development Bank (AfDB), they intended to support 'reforms in the area of employment creation, regional development, social action programmes, good governance and economic recovery' (EC 2013). According to the EU itself, they were:

[...] considered a successful example of multi-donor coordination with a properly designed conditionality structure in response to the Arab spring. PAR I (implemented in 2011) amounted to almost EUR1.4 billion and, along with EUR100 million from the EU, included contributions from the World Bank (USD500 million), the AfDB (USD500 million) and the Agence Française du Développement (AFD, EUR100 million). It had a shared matrix of conditionalities for disbursement. PAR II (implemented in 2012) followed a similar structure, albeit with a lower volume of funds (EUR1.1 billion); EUR65 million from the EU, USD500 million from the World Bank and a further USD500 million from the AfDB (EC 2013, 8).

The transition process in Tunisia coincided with a revision in the basic principles governing the budget support modality, resulting in the 2012 'Budget Support Guidelines for Programming, Design and Management. A Modern Approach to Budget Support'.¹⁷ Instead of having one approach to GBS, the EU tried to increase its ability to differentiate between different settings by introducing three types of budget support contracts: Good Governance and Development Contracts (GGDCs), Sector Reform Contracts (SRCs) and State Building Contracts (SBCs). These were designed particularly for countries experiencing fragility or transitions (Hauck et al 2013, 2). Apart from being situated within situations of fragility, GGDCs and SBCs vary in that only the former demands a positive fundamental values assessment as a pre-condition for budget support being given. Apart from that, both types of contract rely on a formalised risk assessment framework that includes corruption risks, among other things, as well as the four eligibility criteria of: (i) a national strategy, (ii) a stability-oriented macro-economic framework, (iii) a public financial management programme and (iv) transparency and oversight of the budget. The last one had been added as a new criterion (Hauck et al 2013, 6). Tunisia was among the countries to benefit from this new aid modality. Table 6 below shows the concrete amounts that the EU hereby provided.

Thus, while the EU was channelling a significant amount of funds to the country through budget support as well as its various other instruments, it was by no means the only or even the biggest donor in the country. The World Bank, the AfDB and the IMF all distributed significantly more funds during that same period.

¹⁷ https://ec.europa.eu/europeaid/sites/devco/files/methodology-budget-support-guidelines-201209_en_2.pdf

Table 6: EU–Tunisia Bilateral Cooperation 2011–2013 (in million €)

	2011	2012	2013	Total
Good governance and democracy				
Programme in support to civil society (PASC)	5	2		7
Justice Reform (PARJI)	25			25
Economic reform and recovery				
Programme to support the economic recovery (PAR I, II, III) (GBS)	100	68	110	278
Programme to support service competitiveness	20			20
Programme to support the Association Agreement (phase I and II)	10	15		25
Social sector and environment				
Emergency programme for marginalised areas	20			20
Health programme in marginalised areas		12		12
Rehabilitation of low income neighbourhoods		33		33
Environmental governance in Gabès			5	5
ENPARD (agriculture and rural development)			10	10
Erasmus +			10	10
Total	180	130	135	445

Source: <http://ec.europa.eu/enlargement/neighbourhood/pdf/key-documents/tunisia/20150630-tunisia-financial-assistance-fiche.pdf>

The EU also in 2014 signed a mobility partnership with Tunisia, which aims to:

[...] facilitate the movement of people between the EU and Tunisia and to promote a common and responsible management of existing migratory flows, including by simplifying procedures for granting visas. The EU will also support the Tunisian authorities in their efforts in the field of asylum, with a view to establishing a system for protecting refugees and asylum-seekers. Through this Partnership, the EU and Tunisia will not only develop their bilateral relations in the fields of migration, mobility and security, but will cooperate together to better meet the challenges faced in the Mediterranean.¹⁸

The instrument was strongly influenced by EU member states having to stem the flow of migrants in the aftermath of Ben Ali's fall (Wouters and Duquet 2013, 249).

¹⁸ http://europa.eu/rapid/press-release_IP-14-208_en.htm

The ENP was complemented with funding from the regional South Programme ('Strengthening Democratic Reform in the Southern Neighbourhood'). This programme, while funded by the EU, was actually implemented by the Council of Europe (CoE). Embedded within 'Component 2: Good governance and the fight against corruption and money laundering', it consisted of an ambitious anti-corruption and good governance programme called 'South Neighbourhood Anti-Corruption' (SNAC),¹⁹ with a budget of €4.8 million from 2012–2014, and SNAC II²⁰ from 2015–2017, with a budget of €7.37 million. The aim of the overall programme was to:

[...] support the democratic reforms in the Southern Mediterranean countries through enhancing the independence of the judiciary, the fight against corruption, the promotion of human rights and democratic values on the basis of the Council of Europe standards, mechanisms and instruments and through improving the basic framework for regional co-operation in these areas (CoE 2015, 7).

Within Component 2, the project – which also included Morocco in its initial stages – provided assistance to:

[...] all levels of the anti-corruption systems in both countries, including institutional support to the main anti-corruption agencies of Morocco and Tunisia, guidance in preparing specialised anti-corruption legislation, anti-corruption risk assessments in key vulnerable sectors and training for a broad range of government and non-government bodies involved in the fight against corruption and economic crime (CoE 2015, 7).

In this context the project undertook to strengthen the capacity of the temporary Anti-Corruption Commission – the 'Instance nationale de lutte contre la corruption' (INLUCC), established in November 2011 – by helping it draft internal procedures, a code of ethics and establish staffing structures and profiles. The CoE also aided in the preparation of a draft law on the transformation of the temporary commission into a permanent agency, as envisaged by the 2014 constitution. Additionally, the CoE undertook capacity building in the area of corruption risk management by:

[...] setting up a risk-based, anti-corruption framework in Tunisia through the promotion of Council of Europe methodologies on the assessment of corruption risk. This included the building of capacities of Tunisian authorities through tailored seminars followed by a full-scale pilot risks assessment carried out by the Council of Europe in the sector of public properties. Capacities to undertake 'corruption proofing' of legislation were also enhanced (CoE 2015, 8).

¹⁹ A detailed work plan/workplan, including concrete activities, objectively verifiable indicators, sources of verification and underlying assumptions risks for SNAC, can be found online at:

<http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/SNAC/pdf/2753%20SNAC%20Workplan.pdf>

²⁰ The detailed work plan, workplan as laid out in FN 19, can be found online at :

http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/SNAC%202/TUNISIA/Documents/SNAC2_workplan_TUN_web.pdf

Capacity building was also done through a training programme in the areas of:

[...] general awareness-raising on basic anti-corruption concepts, as well as targeted seminars on criminal law investigations, political party financing and the financing of non-profit organisations. The Project also enhanced the capacities of lawyers and chartered accountants in implementing anti-corruption measures through the application of deontology practices, as well as standards on the liability of legal persons and professional anti-money laundering obligations.” (CoE 2015, 9)

Table 7 below details expected results and activities for SNAC I, and illustrates the comprehensive ambitions of the reform programme as well as the wide range of beneficiaries thereof.

Table 7: SNAC I Reform Activities

SNAC Reform Activities 2011–2014	
Expected Result 1: Assessment of the legal and institutional framework on the basis of the GRECO methodology is initiated and aimed at providing recommendations and policy direction in the areas of good governance and the fight against corruption	
Confirmed activity	Beneficiary/cooperation partner
Activity 1.1: Introduction to GRECO methodologies increasing the capacities in implementing European standards, monitoring tools and networking opportunities	<ul style="list-style-type: none"> • Ministère de la gouvernance et de la lutte contre la corruption (MGLC) • Ministère de l'Intérieur (MoI) • Ministère de la Justice (MoJ) • Instance nationale de Lutte contre la Corruption (INLUCC) • Ordre national des Avocats de Tunisie • Ordre des Experts Comptables de Tunisie • Assemblée nationale Constituante (ANC) • Civil society
Expected Result 2: Increased capacities on legislative reforms, achieved through legal advice and legal drafting concerning administration institutions and through knowledge sharing of good practices and cooperation with civil society	
Activity 2.1: Provision of good practices and European models for Editorial Committees of Ministry of Governance and Tunisian Bar Association on issues related to codes of ethics	<ul style="list-style-type: none"> • Ministère de la gouvernance et de la lutte contre la corruption (MGLC) • Ordre national des Avocats de Tunisie
Activity 2.2: Increasing capacities in implementing international law standards when reviewing and improving current national legislation in the area of corruption and economic crime	<ul style="list-style-type: none"> • Ministère de la gouvernance et de la lutte contre la corruption (MGLC) • Ministère de la Justice (MoJ) • Assemblée nationale Constituante (ANC)
Activity 2.3: Provision of legislative advice and legal drafting reviews in support of the drafting	<ul style="list-style-type: none"> • Ministère de la gouvernance et de la lutte contre la corruption (MGLC)

of the future Anti-Corruption Law	
Activity 2.4: Raising awareness of parliamentarians concerning implementation of anti-corruption international standards on financing of political parties , through the exchange of good practices with international partners	<ul style="list-style-type: none"> • Assemblée nationale Constituante (ANC)
Expected Result 3: Make available policy advice and sector risk analysis to relevant institutions concerning good governance and corruption prevention tools/methodologies	
Activity 3.1: Strengthening of the capacities of the National Instance for the fight against Corruption (INLUCC) through sharing of information and good practices, as well as through the establishment of professional networks with homologous institutions in Europe	<ul style="list-style-type: none"> • Instance nationale de Lutte contre la Corruption (INLUCC)
Activity 3.2: Provision of assistance on introducing internal rules concerning the INLUCC's staff status and their role, and internal rules in managing and processing cases as well as safeguarding confidentiality and secrecy of cases	<ul style="list-style-type: none"> • Instance nationale de Lutte contre la Corruption (INLUCC)
Activity 3.3: Providing tools and methodologies as well as capacity building in support to the designing of three major Sector Analyses (i.e. customs, tax administration and property administration). To be carried out by the respective good governance and Anti-Corruption Units (Cellules de Bonne Gouvernance et de Lutte Contre la Corruption)	<ul style="list-style-type: none"> • Good Governance and Anti-Corruption Units • Ministère de la gouvernance et de la lutte contre la corruption (MGLC) • Other relevant Ministries
Expected Result 4: Provision of training, modules and awareness raising for those relevant institutions and civil society groups in the areas of good governance and the fight against corruption and economic crime	
Activity 4.1: Specialised and multi-disciplinary training for INLUCC staff, judges, prosecutors and judicial police to carry out administrative inquiries (or related criminal investigations) concerning economic crime and corruption-	<ul style="list-style-type: none"> • Ministry of Justice • Ministry of Interior • Instance nationale de lutte contre la corruption (INLUCC)

related cases	
Activity 4.2: Multi-disciplinary training of trainers aimed at strengthening capacities of the private attorneys and agents of the law (Auxiliaires de Justice), meaning Court Experts, when dealing with the detection of corruption and conflicts of interest	<ul style="list-style-type: none"> • Lawyers, Chartered Accountants, Agents of the Law

Source: Table adapted from <http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/SNAC/pdf/SNACTUN-Start-up-DOA-en.pdf>

SNAC II built on the previous programme, and included Jordan (in addition to Morocco and Tunisia). After facing criticism due to the lack of objectively verifiable indicators (OVIs) in SNAC I, the CoE included these in the framework of SNAC II. Table 8 below details its expected results and OVIs.

Table 8: SNAC II Reform Activities 2015–2017

SNAC II Reform Activities 2015–2017	
Expected Result I: The Tunisian national authorities, members of the Assembly of the Representatives of the People, relevant institutions and civil society have a good understanding of the CoE standards on the prevention and combating of corruption, money laundering and terrorism with a view to possible accession by Tunisia to those instruments and to GRECO	
Objectively verifiable Indicators (OVIs)	<ul style="list-style-type: none"> • Tunisian authorities start considering possible accession to CoE conventions in the fields of the fight against corruption and of terrorism
Expected Result II: The legislative and institutional anti-corruption framework is assessed on the basis of GRECO methodologies	
OVIs	<ul style="list-style-type: none"> • The assessment process of the Tunisian anti-corruption framework is completed • Recommendations to reinforce the legislative and institutional framework to fight against corruption are developed
Expected Result III: Technical assistance is provided to support Tunisia in the implementation of policies to combat corruption, money laundering and terrorism	
OVIs	<ul style="list-style-type: none"> • The draft IBOGOLUCC (permanent future anti-corruption agency) Law is developed in conformity with international and CoE standards, and introduced into the legislative process • Establishment of a functional network of focal points responsible for inter-institutional cooperation • Roadmaps (based on the anti-corruption strategy) are adopted by Tunisian authorities and their implementation is underway • At least two inter-institutional Memoranda of Understanding (MoU) are adopted • A concept on the whistleblowers centre is adopted officially by Tunisian authorities

	<ul style="list-style-type: none"> • The authorities adopt a roadmap in order to introduce legislative and institutional changes aiming for the creation of a system of integrity testing • Integration of CoE recommendations into official programmes regarding the limitation of cash circulation
Expected Result IV: Tunisia co-operates more with other countries of the region in order to share good practices and set up networks enabling the fight against corruption, money laundering and terrorism to be extended beyond the national framework	
OVI	<ul style="list-style-type: none"> • Number and quality of initiatives and good practices exchanged in the regional framework under the programme and adopted by Tunisian counterparts • Number of people trained by the trainers who participated in the regional training sessions

Source: Table adapted from http://www.coe.int/t/dghl/cooperation/economiccrime/corruption/Projects/SNAC%20Documents/2753-SNAC2_South%20Programme_Interim%20Report_Jan16.pdf

Funds were put on hold by the EU, as well as other international partners such as the IMF amidst political instability in 2013. After the political climate re-stabilized with a new technocratic government and the adoption of the new constitution in 2014, funding resumed in 2014. (BTI 2016, 38)

1.4 The European Neighbourhood Instrument 2014–2015

Since 2014, the ENI has replaced the ENPI as financial instrument of the ENP. The actions and priorities identified in the instrument are further mapped out in the context of 'A Medium-Term Programme for a Renewed European Neighbourhood Policy (2011–2014)' from May 2011, which details expected timelines and concrete responsibilities within EU institutions. While the document discusses the need for benchmarking deep democracy, for civil society support and for capacity building, it nevertheless centres heavily on economic and security cooperation. It also details the EU's plans to move forwards, including a simplified and more coherent programming framework. To this end it introduces the Single Support Frameworks to be proposed, as well as the planning for 2013 and beyond, centring on the ENI – the follow up to the earlier ENPI. It includes provisions for the stricter application of conditionality, but according to this document the future ENI should particularly focus on two points:

- The objectives and scope of the future neighbourhood instrument should reflect the renewed policy vision and drive promotion of economic integration, through Deep and Comprehensive Free Trade Agreements (DCFTAs) and regional integration agreements
- In line with increased performance-based differentiation, future funding should reflect a readiness to move forwards with reform-related commitments taken in the context of DCFTAs or mobility negotiations

The Privileged Partnership, which represents the most recent Action Plan 2013–2017, was adopted in 2014. It confirms the further shift of EU priorities towards strengthening economic cooperation within the yet to be signed DCFTAs, as well as a focus on security issues. A reference to an undefined founding principle of good governance is included (p. 5), but in the

context of the priorities this is discussed mostly as economic governance. The priorities formulated under 'political and strategic dialogue and cooperation' heading centre heavily on security concerns, such as weapons of mass destruction, but do also include parliamentary cooperation (p. 9). Priorities within the 'democracy, rule of law and governance' section centre on elections, the judiciary and the security and prison sectors. Special mention is made of strengthening the cooperation between Tunisia and the CoE in the context of aligning the former's legislative framework with that of the EU, and for the purpose of the capacity building of democratic institutions in the country (p. 11). The fight against corruption is yet again included with the specific activities/objectives of:

- Exchanging information on European and Tunisian legislation and on the implementation of international instruments, exchanges of best practices in the fight against corruption and the development of cooperation in this area, also as part of the implementation of the 2003 UN Convention against Corruption
- Supporting the efforts of the Tunisian authorities to stamp out corruption, including the establishment of a specialist judicial centre to handle corruption cases at the Tunis Court of First Instance
- Investigating the possibility of supporting the implementation of Legislative Decree No. 120 of 14 November 2011 on the anti-corruption body
- Continuing to provide support, through mutual assistance in criminal matters, for Tunisia's efforts to recover the assets fraudulently acquired by the ousted president and his family, which are currently frozen under the jurisdiction of EU member states, pursuant to the relevant international conventions, including the 2003 UN Convention against Corruption (p. 15)

A comprehensive package of priorities relating to the technical aspects of good governance are included, ranging from public procurement reform, tax governance, the strengthening of public governance (developing a governance communications strategy, creating participatory governance portals, carrying out perception surveys, improving the evaluation of public policies and developing performance indicators for assessment and decision making, and setting up a national integrity system) (p. 18), internal financial control in the public sector, verification and external audits, alignment of statistical methods to, finally, ongoing administrative reform – which yet again contains a provision to 'help fight corruption through the implementation of whistleblowing mechanisms to denounce instances of corruption' (p. 20). It thus seems that the EU is now less happy to accept the existing measures and information on a supposedly smooth running PFM system than it has in the past, instead pushing for comprehensive PFM reform to align the Tunisian regulatory framework with that of the EU. In contrast to the earlier Action Plan, the EU has recognised the importance of greater verifiability to measure performance and has included a table that clearly outlines the actions to be taken by Tunisia, possible EU support for each one as well as indicators and a timetable for their verification.

These changing priorities, back towards stronger economic and security cooperation, are also reflected in the funding allocations for 2014–2015:

Table 9: EU–Tunisia Bilateral Cooperation 2014–2015 (in million €):

	2014	2015	Total
Socio-economic reform for inclusive growth			
Programme to support the economic recovery (PAR IV: budget support)	100		100
Programme to support the association agreement and the Transition	6	12.8	18.8
Programme to support the private sector and vocational training (IRADA)		32	32
A €70 Million programme will be presented for adoption before the end of 2015		70	70
Fundamental elements of democracy			
Justice Reform II (PARJ II)	15		15
Equal opportunities	7		7
Migration (border management and international protection)	3		3
Media reform	10		10
Security sector reform		23	23
Support to the cultural sector		6	6
Regional and local development			
Rehabilitation of low-income neighbourhoods II	28		28
Regional development (CAP2D)		43	43
Total	169	186.8	355.8

Source: <http://ec.europa.eu/enlargement/neighbourhood/pdf/key-documents/tunisia/20150630-tunisia-financial-assistance-fiche.pdf>

2. Framework of EU conditionality

2.1 Conditionalities under Ben Ali

EU conditionalities as instruments to induce reform can be implemented at several levels of cooperation with partner countries. They can be entailed in the legally binding agreements, in the instruments that structure cooperation (whether regionally or bilaterally, such as the ENP or the Cotonou agreements with the African, Caribbean and Pacific countries) or within the concrete aid modality used (such as project aid, budget support and so on). Political conditionality more specifically means connecting 'perceived benefits for another state (such as aid, trade concessions, cooperation agreements, political contacts, or international organisational membership), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles' (Smith 1998).

It was first used as a tool by International Financial Institutions (IFIs) in the context of structural adjustment reforms in the 1980s, and evolved from 'merely' economic conditions to the inclusion also of political ones in the 1990s. While the fact that ethical concerns surrounding human rights abuses gaining greater prominence in the 1990s certainly played a role herein, it was also due to the increasing awareness that aid could not be used to further economic development without functional institutions and the rule of law existing at least to a certain degree on the ground. According to Balfour:

Conditionality acquired new salience with the enlargement process of the 1990s–2000s, where Brussels anchored the political transformation of Central Europe to the prospect of joining the EU. Through this process, the EU also developed the principles and criteria against which to assess the political and economic standards of the countries wishing to join the EU (the Copenhagen criteria²¹ agreed in 1993), 'screening' methods to evaluate their political and structural situation, annual reports on progress towards adopting the *acquis communautaire* and guidelines, benchmarks and priorities to be addressed to meet the general conditions laid down by the EU (2012, 15).

The success of the accession process was hence seen at least partially as being due to a successful employment of conditionalities. This discovery had effects on the design of the EMP, as well as of the ENP thereafter. The promotion of political reform first became an objective with the adoption of the EMP in 1995. This included not only democracy and the rule of law, but also human rights – as enshrined in the UN Charter and the Universal Declaration of Human Rights (Del Sarto and Schumacher 2011, 932). The AAs concluded within the framework of the EMP thus contained an 'essential elements' clause that would allow for the application of punitive measures, up to and including the suspension of aid, as a form of negative conditionality (Tocci 2007, 3). The impact of negative conditionality was severely curbed by the fact that the EU never actually applied it, even in the face of a number of severe violations of its own fundamental principles (Balfour 2012, 16).

The enlargement process informed the design of the ENP's conditionality structure more directly. The Action Plans thus contained priorities needing to be met by partner countries, as well as the benchmarks and annual reports by which to assess progress (Balfour 2012, 16). However, contrary to the ambitions of the ENP these benchmarks, as formulated in the Action Plans, lacked clear and precise definitions of core concepts such as democracy, the rule of law and good governance – not to mention enforceable timetables. This was compounded by the fact that the Action Plans themselves were negotiated bilaterally, and thus contained very little direct

²¹ 'The accession criteria, or Copenhagen criteria (after the European Council meeting in Copenhagen in 1993 that defined them), are the essential conditions all candidate countries must satisfy to become a member state. These are: political criteria: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; economic criteria: a functioning market economy and the capacity to cope with competition and market forces; administrative and institutional capacity to effectively implement the *acquis** and ability to take on the obligations of membership' membership.

http://ec.europa.eu/enlargement/policy/glossary/terms/accession-criteria_en.htm

criticism of the Ben Ali regime. Where critical issues were included, the vague formulation of conditions regarding democracy, the rule of law and human rights left – alongside a lack of concrete timetables – ample room for interpretations that would allow the regime to ultimately undertake mere cosmetic reforms (Del Sarto and Schumacher 2011, 943).

The Tunisian case thus underscores the willingness of the EU to turn a blind eye to violations of political conditions, at least as long as economic ones remain favourable. This point is illustrated by the fact that even when the EU signed the Action Plan in 2004, it happened within the context of a repressive political climate in Tunisia that had continuously worsened from the late 1990s into the early 2000s – existing in stark contrast to the supposed commitment to shared fundamental values at the core of the ENP (Balfour 2012, 17). Repression continued unabated after the signing of the Action Plan, with neither positive reform steps being taken on the part of the Ben Ali regime nor punitive measures being enacted by the EU in terms of the allocation and distribution of funding. An ‘amendment to the Tunisian penal code that allows the regime to “criminalize” and, thus, prosecute any person who has international links, regardless of whether these contacts are with international NGOs, international organizations, or even with foreign governments’ occurred without significant EU actions being taken in response (Del Sarto and Schumacher 2011, 943).

Negative conditionality was also not enforced when the EU found itself struggling to put forward reforms such as the €2.15 million media support programme, which was never implemented in the end, or the €25 million justice reform programme that could only be implemented under the threat of payment suspension. However the latter was ultimately abandoned altogether after the Tunisian side did not fulfil an equal access condition. While that could be interpreted as a positive sign of the EU’s willingness to enforce its own conditionalities, it played into the hands of a regime that had been unwilling to engage in justice reform to begin with. In both cases the EU ultimately did not make use of its conditionality clauses to enforce successful implementation, thus continuing its economic and social programmes uninterrupted (Powel 2009, 65).

The largely symbolic negative conditionality approach of the EMP and the ENP was complemented by positive conditionalities. These included the use of benefits, under the economic pillar of the ENP, as incentives for political progress:

These benefits have included greater access to the European market for Tunisian goods and various infrastructure and training programmes aimed at the Tunisian business community. The EU is Tunisia’s principal trading partner, accounting for 74 per cent of both Tunisia’s exports and imports, or €18.4 billion in monetary terms (Commission of the European Communities 2007), providing the Union with potentially considerable leverage over Tunis (Powel 2009, 65).

However, the EU neither used that leverage nor did the incentives it offered convince Tunisia to initiate reform. The more efficient avenue of influence for reversing this relationship between incentives and benefits, by tying political reforms to the delivery of EU benefits, was never explored (Tocci 2007, 12).

Whereas political reform in exchange for disbursement was thus ultimately more of a hopeful optional, the EU did act more forcefully in the realm of security relations. Thus, one condition for more assistance from the EU was the implementation of 'specific measures for migration control' (Hollis 2012, 92). It was in part the EU's interest in seeing these conditions fulfilled that enabled the Ben Ali regime to successfully leverage security concerns off against political reforms (Hollis 2012, 93):

It is within this context of shifting EU priorities that over the course of the ENP's evolution the Union has placed decreasing levels of attention to the logic of political conditionality aimed at democracy and human rights. It has instead paid greater attention to cooperation with its neighbours aimed at jointly tackling problems of migration and border management (e.g. through the focus on readmission agreements), securing reliable energy supplies (e.g. through energy and transport networks) or the fight against organized crime and terrorism (e.g. through intelligence sharing) (Tocci 2007, 12).

Thus while the original intention of the ENP's conditionality approach was the formulation of 'Copenhagen proximity criteria' as a political conditionality instrument, this objective had been weakened by the time the Action Plans were drafted to include only vague references to political reforms – given the lack of appropriate benchmarks and timetables to make them enforceable (Tocci 2007, 12). This stands in contrast to the case of the enlargement process, where the responsibility to monitor, benchmark and recommend reform in partner countries fell squarely on the shoulders of the EU alone (Tocci 2007, 4).

The EU has hence not only been loath to employ negative conditionality in Tunisia but to also to use its considerable economic leverage to entice political reform there. Instead, that leverage was used to enforce conditionality in the realm of economic and security relations. Some of the conditionalities that Tunisia faced under Ben Ali were thus part and parcel of the aid instruments deployed. Others were part of more specific aid modalities; the most important and far reaching in terms of impact being those embedded in budget support operations. They were of a more technical nature, and were designed to make sure that the conditions for the proper execution of budget support were in place. Budget support is negotiated with partner country governments to reflect national strategies and priorities, and thus is mostly a tool to facilitate the management of reforms – and not a political tool to induce them (EU Parliament 2011, 10).

The experience with conditionalities in the 1990s, in the context of the budget support modality, had shown its limits as an instrument by which to induce reform in unwilling partner countries. In response to these revelations, the EU issued the 'Community Support for Economic Reform Programmes and Structural Adjustment: Review and Prospects' in 2000, which set principles relating to ownership and conditionality that would later come to be included in the aid effectiveness agenda:

EU budget support programmes were increasingly provided over three-year periods with annual fixed tranches subject to compliance with eligibility criteria, and variable tranches linked also to performance against agreed targets on selected outcome indicators [...]. Regarding eligibility

criteria for budget support, the Commission (along with most other providers) applies a dynamic approach by requiring relevant, credible commitment to reform and evidence of progress rather than compliance with minimum standards (EC 2010, 5).

Budget support is thus divided into fixed and variable tranches. The former has a fixed value, specified in the framework of the Financing Agreement. If all conditions are met, they are disbursed in full; if not, they are not disbursed at all. The latter has a maximum value that is also specified in advance, but that can be partially disbursed – with the concrete amounts depending on performance criteria (EC 2007a, 17). As we have seen, conditionalities play a role in both types of tranches. Fixed tranches rely on eligibility criteria as ex ante conditionality. For the period 2007–2010 they consist of: (i) a national development or reform policy strategy, (ii) a stable macro-economic context and (iii) adequate PFM. Within the framework of the ENP, they are specified in Article 15(2)(e):

Community assistance may also be used [...] for sectoral and general budget support if the partner country's management of public spending is sufficiently transparent, reliable and effective and where it has put in place properly formulated sectoral or macro-economic policies approved by its principal donors, including where relevant, the international financial institutions (EC 2007a, 27)

Variable tranche conditionality indicators are selected “in agreement with the authorities and in co-ordination with other development partners, a number of indicators from the Performance Assessment Framework (PAF).” (EC 2012b, 47) Of the four eligibility criteria, PFM reform is the most relevant with respect to good governance and anti-corruption. As noted above, budget support was not intended to be used for political leverage but for ensuring the proper management of reforms. PFM reform represents the technical dimension of good governance, and thus plays an essential role in the fight against corruption. According to the EU, PFM can be defined as:

‘The system by which financial resources are planned, directed and controlled to enable and influence the efficient and effective delivery of public service goals’. The public financial management system comprises the full budget cycle including: revenue administration, budget preparation, budget execution with cash management, procurement systems, internal controls and internal audit, accounting and reporting, external audit and scrutiny. A sound PFM system is essential for the implementation of policies and the achievement of development objectives. A sound PFM system should collect resources from the economy, integrate them into the budget, allocate them and use them in an efficient, effective, economic, equitable and accountable manner. Government public financial management systems are critical to implement policies and deliver public services and, therefore, a key criterion for eligibility to budget support (EC 2012b, 37).

There is some tension regarding the fact that PFM is considered both an eligibility criterion for, as well as an objective of budget support. (EU Parliament 2011, 12) In fact, it has served both as eligibility conditionality for the fixed tranche, and a performance criterion for the variable tranche.

Indicators for performance measures are drawn from national policies and according to ownership principles should not be imposed. (EC 2007a, 62)

A further, last resort negative conditionality is a clause for suspension (Article 21 of the General Conditions) in the EU Financing Agreements. This is in addition to the suspension clause in the ENP itself. The guidelines also recommend, however, to not make political issues part of specific budget support conditionalities, but to relate them to the overall cooperation programme. In the case of Tunisia this meant that politically sensitive issues would have had to be dealt within the framework of the Action Plan and not the more technical budget support modality.

According to a 2011 evaluation of EU budget support to Tunisia, it accounted for around 60 per cent of resources allocated to Tunisia between 1996 and 2008. It was therefore the most important aid modality for the country. Nonetheless, Tunisia during that period was not heavily aid dependent, and budget support accounted for only between 0.4 per cent and 1 per cent of GDP, covering an average of 1.4 per cent of public expenditure (OECD 2011, 23). The evaluation asserted that the implementation of budget support in Tunisia had been supported by a diversified conditionality framework. Conditionalities were jointly identified during policy dialogue processes, and key measures were included as indicators in the matrixes – while also serving as benchmarks to assess performance (OECD 2011, 23). These matrixes mix process and results indicators, and thus ones related to reducing fiduciary risks and improving technical facets of governance – alongside indicators measuring outcomes too. The report does not specify the concrete set of indicators used; interviewees have suggested, however, that these mostly related to PFM measures. They were usually deemed satisfactory by all major donors.²² This assessment is supported by the budget support evaluation, which states that:

GBS programmes have included specific attention and measures to strengthen PFM, although this was relatively solid since the early 1990s, after years of structural adjustment. On economic governance, actual progresses have been supported through GBS – and the non-fulfilment of important conditionalities (like in the case of the bid for the 2nd GSM licence) has been sanctioned (OECD 2011, 24).

Formal policy dialogue is hereby instrumental in formulating and monitoring conditionalities, while the informal policy dialogue within the GBS framework has enabled the solution of any bottlenecks arising. It seems that budget support as an aid modality was instrumental to the establishment of these dialogue mechanisms during the period 1996-2008. Additionally, despite some gaps in the regulatory framework and its implementation, as well as the fact that the government's enthusiasm for PFM reforms seems to have waned in the years before the uprising, Tunisia's PFM system was generally assessed by the EU as being good enough as to not to hinder the disbursement of funds.

²² Interview with EU expert (held 11.12.2015).

2.2 Conditionalities in the aftermath of the Arab spring

With the onset of the Arab spring, the EU not only reconsidered its approach to democracy promotion in Tunisia but also to conditionality itself. While the negative conditionality approach remained in place, it was mentioned only briefly in the context of sanctioning the regime in Syria as the civil war there escalated further (Balfour 2012, 23). In contrast to this approach, the EU was to embark on a major revision to its positive conditionality one – with new and more enticing incentives being offered to lure partner countries onto the path of political reform.

The abovementioned SPRING programme and mobility partnerships were a crucial part of this redefined approach, which was centred on promoting deep democracy. Within this differentiated more for more approach, trade, assistance and mobility were the rewards for those that progressed the furthest (Balfour 2012, 20). These additional incentives – subsumed under the three Ms (money, market access, mobility) – are thus part of a positive conditionality approach. Part of this more for more approach was the prospect of an increasing stake in the European market in the context of the DCFTA set to replace the Free Trade Areas, as well as enhanced mobility – and, hence, access to the European labour market (Balfour 2012, 21). While mobility partnerships are therefore technically intended to induce the political reforms necessary to strengthen democracy and further transition, in practice they were tied to partner countries' willingness to curb irregular migration and increase cooperation on border control. The attempt by the EU to conclude these kinds of partnership was by no means new, however. The EU had in previous years tried to conclude similar partnerships with Tunisia, but the incentives on offer were not sufficient to tempt the Ben Ali regime to concur. In the context of the transition period, the Tunisia government found itself in a weakened bargaining position, and signed a mobility partnership in 2014.

Conditionalities were not only supposed to offer more incentives, but also to be more measurable and verifiable. The EU was thus to rely on a proper benchmarking approach: 'Closer political cooperation means advancing towards higher standards of human rights and governance based on a set of minimum benchmarks against which performance will be assessed' (Partnership for Democracy and Shared Prosperity with the Southern Mediterranean 2011, 6). The actual implementation of this approach immediately after the uprising was by necessity initially rather flexible. The main aim of the SPRING programme, for instance, was to support and reward Tunisia for its willingness to engage in reform in the immediate aftermath of the events of early 2011 (Youngs 2015).

Stricter conditionalities were put in place in the context of joint budget support, however. Even before the Arab spring, questions and criticism surrounding budget support had increased from a variety of different institutions – among them the European Court of Auditors, as well as the European and national parliaments. Political governance and the role of conditionality, as well as their connection to performance and results, were key among the issues raised (EC 2010, 3). In response to this, the EU revised its aid delivery guidelines and published its new 'Budget Support Guidelines. Programming, Design and Management: A Modern Approach to Budget Support' in 2012. The main innovation in terms of conditionality, as it applied to good governance, was the addition of a fourth eligibility criterion of 'transparency and oversight of the

budget' to the three previous ones of a stable macro-economic framework, national strategy and proper PFM systems (2012, 33). An updated risk assessment framework added political risks to the previous macro-economic, developmental, PMF and corruption ones too (Hauck et al 2013, 6).

The report goes on to discuss the selection of variable tranche indicators, dividing them into: input and process ones that measure 'financial resources provided and the policy and regulatory actions taken (e.g. adoption of a regulation)'; output ones that 'measure the immediate and concrete consequences of the resources used and measures taken (e.g. schools built)'; outcome ones that 'measure the results at the level of the beneficiaries (e.g. proportion of children vaccinated)'; and, finally, impact indicators that measure 'the consequences of the outcomes in terms of wider objective (e.g. literacy rate)' (EC 2012, 47). Out of the four types of indicator, the EU is particularly interested in outcomes. Indicators are selected jointly with the partner country and with other donors from the Performance Assessment Framework (PAF) for variable tranche conditionality.

Tunisia concluded several new state building contracts after the uprising. Under these new contracts, and in the context of the transitional period that had opened up spaces for the EU to negotiate reforms, budget support included an increasing amount of political conditionalities – with governance indicators being included post-2011.²³ Conditions further included implementing legislation in the media sector, greater budget transparency and improved access to information.²⁴ An important part of budget support conditionality with direct effects on anti-corruption was the creation of the temporary Anti-Corruption Commission in November 2011. As Section IV shows the EU not only pushed for the adoption of a law on this Anti-Corruption Commission, but that it be accompanied by a budget and that staff be selected within an appropriate timeframe. It thus mixed input conditionalities (which it judged to be the least desired because of their potential to undermine ownership), with output conditionalities. It is not clear, whether outcome or impact conditionalities played a role in the PAF, and if yes, what role they played.

3. Role of the Governance Facility instrument

The governance facility instrument was announced in 2006 as an additional positive incentive for the promotion of good governance in partner countries. It was first launched at the Euro-Mediterranean 10th Anniversary Barcelona Summit in 2005, when:

[...] the Chairman noted that partners had made a commitment to 'strengthening democracy, expanding participation in political life, public affairs and decision making, and further promoting gender equality, to enhance respect for all human rights and fundamental freedoms, including

²³ Interview with EU expert (held 11.12.2015).

²⁴ Interview with EU expert (held 11.12.2015).

freedom of expression in accordance with their international obligations, to continue maintaining and ensuring the independence of the judiciary and expand access to justice to all. In this context the EU will establish a substantial financial Facility to support willing Mediterranean partners' in carrying out their reforms, taking into account that successful reforms must develop from within the societies of the region'. The Facility was introduced for Mediterranean countries in 2006, but only Jordan and Morocco benefited from an increase in their annual allocation.²⁵

The Governance Facility was a voluntary instrument, whereby the progress towards the bilaterally negotiated objectives – including good governance – would determine an additional financial allocation for a partner country. The size of the allocation for the period 2007–2010 was to be €50 million for the whole Southern neighbourhood. Based on the ENP Action Plans, progress was to be assessed in relative terms. One of the indicators was, for example, the Corruption Perception Index of Transparency International; others looked at legislation and relevant institutional mechanisms and their impact on governance, the rule of law, human rights and democracy-related issues (U4 2009, 3). The Governance Facility failed to resonate with the Southern neighbours and its lack of success caused it to be quietly cancelled in the wake of the Arab spring, its funds being diverted to new instruments (A Medium-Term Programme for a Renewed European Neighbourhood Policy 2011, 20). The funds themselves on the one hand were not substantial enough to incentivize reforms. But this was coupled on the other hand with the fact that no consequences resulted from not being assessed as progressing under the instrument.

4. EU tools to fight corruption and promote good governance

The fight against corruption is an important issue for the EU. Most documents related to the ENP mention the relevance of the fight against corruption, fraud and organised crime as key parts of the reform agenda for partner countries. However, as a U4 report from 2009 explains, the ENP suffers from a lack of concrete anti-corruption measures – including corruption benchmarking and the sufficient involvement of civil society in corruption monitoring. The report goes on to assert that 'no specific anti-corruption mechanism has been put in place to ensure that EC assistance under the ENPI is protected from corruption. As the Commission relies on the regular EU anti-corruption policies and procedures in this matter, ENP funds face similar challenges of transparency and accountability to other EU funds' (U4 2009, 1). In other words, the EU's anti-corruption efforts rely on the implementation of ENP commitments, as well as those that partner countries incur within the framework of the instruments embedded in the ENP. However with the latter relying on positive incentives rather than sanctions to move partner countries to implement commitments concluded within the Action Plans, it is up to the partner government to decide how specifically to follow through with anti-corruption reforms in the context of the ENP Action Plans.

²⁵ http://www.emwis.org/overview/fo101997/enpi/financing/governance_facility_en.pdf

While the ENP remains vague, several nominal instruments to identify and deal with corruption are to be found in the provisions of the budget support modality. For this in particular PFM as an eligibility criterion for budget support is significant, because the EU considers PFM to be part of the assessment and implementation process for budget support – specifically as a way of addressing the fact that PFM is one of the visible entry points for corruption. Partner governments are required to give information on their efforts to fight corruption in the Action Fiche. The relevant section is to cover the topic of corruption by:

(i) identifying those PFM reforms that have a particular anti-corruption dimension; (ii) assessing the extent to which the fight against corruption is on the political agenda; (iii) specifying whether there are particular public entities set up to deal with corruption; and, (iv) mentioning any complementary activities of the Commission in supporting the partner country's fight against corruption (Aid delivery methods 2007, 53).

Strengthening the PFM system is thus part of the EU's corruption prevention mechanisms. Good governance in its function as a cross-cutting issue – and, according to the EU, in particularly the dimension of PFM – also plays a role in assessing the quality of the national strategy at the basis of budget support.

The 2012 guidelines state in this respect that the Commission sees the need for partner countries to have mechanisms covering the whole of the anti-corruption and fraud cycle. These should include prevention, detection, investigation and sanctioning, as well as the appropriate accompanying judicial capacities and independent authorities. For capacity development purposes, the Commission wants to encourage cooperation with the European Anti-Fraud Office (OLAF) (EC 2012b, 50).

While cooperation with OLAF and the CoE were indeed initiated in the aftermath of the Arab spring, with the CoE conducting an important and far-reaching anti-corruption project that will undoubtedly greatly enhance Tunisian capacities, this makes it clear that the EU's leverage remains bound by the willingness of the partner country to cooperate. Previous to the Arab spring, OLAF was not invested by the Tunisian government with the authority to conduct investigations there.

A recurring problem is that, apart from the rather strong nominal support for good governance in the ENP and in the context of budget support, when it comes to instruments the EU has not given itself much room for manoeuvre in the promotion of these goals in Tunisia. This could be seen in the dropping of anti-corruption provisions from the Action Plan in 2004 to the CSP in 2007. While both the ENP as an instrument and budget support as a modality have a suspension clause, in cases where cooperation is politically wanted and engagement on other issues is possible, it is still too heavy-handed a lever for an EU preferring engagement over confrontation. On the other hand, while budget support does have the additional option of using allocations from the variable tranche as a leverage mechanism, budget support as a modality is expressly intended not to be used as undue leverage for politically sensitive issues. As a combination of it being dependent on national priorities and negotiated between the partner

government in question and the EU, the latter has not, therefore, used it as an incentive through which to tackle highly sensitive political issues. Tunisia has made clear its willingness to walk out on negotiations that it considered too hostile in the past. This problem is compounded by the fact that governance, as defined by the EU, has a multitude of dimensions to it. It is thus easy to focus on the less political and more easily negotiated technical dimensions and still be able to lay claim to the promotion of good governance despite widespread violations going unpunished at the political level.

This yet again points to the leeway that the partner countries themselves have in influencing the measures by which they will be judged. On the one hand, this is in compliance with the new aid effectiveness agenda and the greater emphasis it places on country ownership. On the other, it also diminishes the room available to positively affect governance outcomes beyond the technical level.

5. How do words and actions match up?

While the EU's commitment to the values of good governance was strong in the initial design of the ENP instrument, this commitment was not sufficiently translated into either the documents structuring its concrete relationship with Tunisia or into the actions that the EU has taken in response to severe violations on the ground. The EU clearly acknowledged this shortcoming after the Arab spring, when it vowed to step up its promotion of fundamental values such as democracy and human rights – as well as its support for civil society actors in the country.

Prior to the Arab spring, this lack of commitment in enforcing its values in Tunisia was visible in the fact that critical points regarding the interpenetration between the state and the ruling party, the Rassemblement Constitutionnel Démocratique (RCD), as well as the increasingly repressive political climate that was addressed in the EU's country reports were not translated into equivalent priority actions in the Tunisia Action Plan. This document makes only vague references to strengthening democracy and related institutions in the country (Del Sarto and Schumacher 2011, 941). Instead of including clear provisions on reform, the Action Plan decided on advocating for a subcommittee to deal with issues of democracy and human rights. This subcommittee did not, however, first meet until 2007, and even thereafter did not produce any significant action or reform – this happening without any significant reaction from the EU. Del Sarto and Schumacher (2011) describe this as a manifestation of the EU's general benign neglect towards potentially contentious political issues right up until the Arab spring. She maintains that not only did it take the subcommittee almost three years to hold its first meeting, but that furthermore the nature of political rule – as well as the repressive climate shoring up authoritarianism – were never part of their discussions. In the same vein, even though the annual progress reports started to become more critical, this was not reflected in concrete measures being taken (Del Sarto and Schumacher 2011, 947).

This reluctance of the Tunisian government to address human rights and democracy-related issues did not come as a surprise:

In fact, already during the first Association Council meeting in 1998 Tunisia threatened to discontinue the talks if the domestic human rights situation was to be discussed. In a way, this attitude has constantly been characterizing Tunisia's position under Ben Ali, irrespective of whether talks were held in the Association Council or the ENP subcommittee (Del Sarto and Schumacher 2011, 941).

The EU not only accepted this, but actually continued to sign Action Plans and funnel resources into the country – all the while praising Tunisia's progress on economic reform. This interpretation is supported by the fact that even where the Action Plan suggests political reform measures, there are no clear cut benchmarks and timetables given that could enforce even these watered down reform priorities. This suggests that the EU was not only aware of the gap between its value aspirations and their actual implementation, but chose to forgo enforcing them in exchange for closer cooperation regarding economic and security issues. Thus it was the EU's interest in migration control and the prevention of terrorism that were among the Action Plan's conditions for receiving assistance, and furthermore its desire to present to the world a success story in terms of economic reform gave the Tunisian regime enough leverage to skirt politically undesirable reform issues (Hollis 2012, 92-93; see also, Tocci 2014).

This discrepancy between the EU's rhetorical promotion of its fundamental values and its actual commitment to seeing them implemented seems to be characteristic not only of its past relationship with Tunisia, but of its aid approach more generally. Research has shown no significant correlation between EU aid and trade on the one hand and democratic criteria on the other (Schimmelfennig 2012, 17). In contrast to its prior approach to Tunisia, and in response to widespread criticism, the EU is nowadays making certain demands for further reform also in the political arena (Balfour 2012, 25). While the demands that the transition has placed on the Tunisian government has made it more susceptible to caving into EU pressure for democratic reform, there is however some evidence that beneath the EU's democracy promotion reform agenda, economic and security interests still carry the day. As was shown in Chapter 1.4, the majority of the new ENI seems focused on issues of economic cooperation and migration control – with the financial allocations matching these focuses.

III. STATE OF GOVERNANCE: DESCRIPTIVE PART

6. Governance regime

In the aftermath of the 2011 uprising, Tunisia experienced a succession of interim governments ruling up until its first democratic parliamentary and presidential elections were held in 2014. The first of these saw the secularist Nidaa Tounes party, composed of many figures from the ancient regime, win a majority of seats. Beji Caid Essebsi won the presidential elections meanwhile, and now heads a semi-presidential representative system of government in which the executive power is divided between a popularly elected president and a prime minister who leads the party or coalition with the majority of seats won in parliamentary elections (International IDEA 2014, 62-63).

Immediately after the uprising that saw former President Ben Ali flee the country, two interim governments took over state affairs until the first free elections were held in October 2011 for the National Constituent Assembly (NCA), still under the old constitution. The NCA was tasked with drafting a new constitution, and existed as a de facto transitional parliament until 2014. Political tensions between a centre-republican camp and a leftist-liberal opposition led to the voluntarily withdraw of the Islamist Ennahda government in early 2014, which was replaced by a technocratic government (Schäfer 2015, 11–12).

In addition to the turmoil on the political stage, the country faced a series of upheavals that further threatened its stability – including terrorist attacks, the assassination of two opposition politicians, a decline in tourism and a high level of youth unemployment. Tunisia has nonetheless been continually making progress towards democracy, as evidenced by improving indicators. Between 2012 and 2015, the Freedom House score (2015a) for the country improved from ‘partly free’ to ‘free’ (after being ‘not free’ in the period 2007–2010). The political transition in Tunisia has been ‘relatively calm, non-violent and participative’ (Schäfer 2015, 11). The January 2014 constitution guarantees fundamental rights and freedoms, human rights, freedom of faith, gender equality and introduces new rights too. The influence of the president has been reduced, while the roles of the prime minister and of the parliament have been strengthened. A new constitutional court will soon be established, and is meant to be an equal player alongside the executive and the legislature (Pickard 2014, 136-138). However the constitution was left intentionally vague on several important topics, and will need to be filled with content through the promulgation of organic laws.

Under Ben Ali, Tunisia was a highly personalist, particularistic state – with the president sitting atop a massive party-state apparatus. Political power was clustered mainly around the presidency, state bureaucracy and the regime party, the RCD, all of them controlled by Ben Ali (Erdle 2010, 172). The RCD provided the organisational structure to rule (Hartmann 2011, 250), along with a technocratic – but regime-bound – bureaucracy to implement policy (Erdle 2010). The RCD was at the time the essential redistributive mechanism of the Ben Ali regime. It had boasted an impressive administrative apparatus with vast structures penetrating every corner of the country, containing about 7,500 local cells and 2,200 professional ones (Hibou 2011b, 86).

These served as the intermediaries between state power and the population at large. Its structures not only duplicated that of the state administration, but also had in its employment over 10,000 actual civil servants paid by the state but working for the regime party (Hibou 2011, 88). The RCD thus tied together a network of clientele interested in not only political but also economic advancement, since it was a gatekeeper to most everyday activities: finding a job, acquiring housing, using the banking system, obtaining permits, grants and official documents from the bureaucracy, as well as gaining access to medical treatment, to education and to financial aid (Warkotsch 2015, 195).

While parliament was as tightly controlled as the executive, the appearance of being pluralistic was upheld through a dual system installed for the 1994 parliamentary elections. Herein the majority party received a fixed share of 88 per cent of seats, with the remaining 12 per cent being divided among the smaller parties (Fuentes 2010, 526). This established a mechanism by which loyal opposition parties could be rewarded via their inclusion in parliament, thereby splitting the ranks of the opposition. It also created a system in which opposition parties had to compete for seats against each other, and not with the RCD – which was guaranteed a comfortable majority at all times.

7. State capture by private interest, public allocation and incidents of corruption

While clientelism was an essential element of maintaining rule, nepotism and high-level corruption also increased markedly during the last decade of Ben Ali's rule (Freedom House 2012). It was complemented by far-reaching petty corruption where society met with agents of the state – be it bribes in exchange for social services, to police officers, payments for good grades in school or admission to an elite school (Paciello 2011, 7).

In addition to the petty corruption present at every level of the state, Tunisia also witnessed a high degree of predation on the part of the elites connected to the first family. They had managed to acquire a substantial share of the country's wealth through the capture of the state's regulatory framework (Rijkers et al 2014, 24). Regulatory capture and high entry barriers that benefited connected family members not only distorted the market, creating inefficiencies in their wake, but disadvantaged regular business interests, deterred foreign investment and prevented the emergence of a healthy, independent private sector (Paciello 2011, 7). Cronyism and predation were thus especially prevalent in highly regulated sectors, allowing cronies to leverage their privileged access to decision-making, with businesses relying on imports, and with respect to privileged access to state assets, which were then bought at non-market conditions. (WB 2014, 113) Another highly vulnerable area was public procurement, which saw government contracts not being awarded in an open, fair bidding process – being given rather to cronies, despite the rules being nominally fair on paper at least (Bertelsmann Foundation 2010: 27). As the World Bank reports, "although they account for less than one percent of all jobs, firms confiscated to Ben Ali's extended family account for 3.2 percent of all private sector output, and a striking 21.3 per centpercent of all net private sector profits in Tunisia, an amount equivalent to

USDUS233 million in 2010, corresponding to over 0.5 percent of GDP.” (WB 2014, 112) Global Financial Integrity (2011) estimates that illicit financial activities and official government corruption caused losses of over USD1 billion per year.

Corruption was accompanied by increasingly conspicuous consumption, violating norms of propriety among Tunisians and causing outrage in the poverty-stricken interior regions. This was thus one of the key causes of the uprising. Unsurprisingly, one of the first subsequent demands made by protestors concerned the recovery of assets stolen by Ben Ali and his family. The former president and his wife were sentenced to 35 years imprisonment in absentia for unjust enrichment theft and unlawful possession of large sums of foreign currency, jewellery, archaeological artefacts, drugs and weapons (Al Jazeera 2015a; *Guardian* 2011). In the same year, the assets of 110 family members of Ben Ali were confiscated and the pursuit of their remaining finances abroad was initiated (Palazzolo 2011).

However despite progress made in regulations and the government’s commitment to transparency, corruption persists in Tunisia today. According to Samir Annabi, head of Tunisia’s new anti-corruption commission, petty corruption has been on the rise in recent years, coming in the form of tax evasion, doctored entry exam results for public sector jobs and bribes being paid to expedite official paperwork. A study conducted by the Tunisian Association for Public Auditors estimates an amount of at least 450 million dinars (EUR200 million) in bribes having been given to state employees in 2013 alone, but the responsible parties are rarely punished (Al-Araby 2015b). Rules enforcing asset declaration are still not completely in place, and whistleblower protection schemes remain thin on the ground (Bertelsmann Foundation 2014, 34).

The Tunisian government initiated a public procurement reform process to overhaul related rules in 2013, and also introduced the e-procurement system TUNEPS (OECD 2013a, 65-66). Companies are recommended to use this system to mitigate the risk of corruption. However successful entrepreneurship still seems to be dependent on political connections, as some influential family clans still possess vital contacts within the state apparatus – which ensures favoured market access (Bertelsmann Foundation 2014, 25). While Tunisia has conflict of interest rules, codes of conduct, transparent public procurement systems and laws based on non-discrimination and the independence of the supplier vis-à-vis the public buyer, there is still an implementation gap that prevents them from being ‘implemented systematically or in a transparent way’ (Bertelsmann Foundation 2014, 34). There are currently no provisions for civil servants to publicize corruption or other forms of misconduct. (BTI 2016, 11)

Recent results of the Global Corruption Barometer 2013 survey by Transparency International reflect the reality of these problems. They show that Tunisians believe corruption to have worsened after the fall of Ben Ali, with 80 per cent thinking that corruption in Tunisia has increased or increased a lot over the past two years. Since these measures are based on perceptions, they could, however, be at least partly the result of changes made in media coverage that allow for more extensive reporting on incidents of corruption. Nonetheless, corruption is suspected to be widespread among civil servants, ‘from the funneling of development funds by administrators, to the collaboration with arms and drugs smugglers by

border and customs officials. The parliamentary and presidential elections were surrounded by numerous allegations of corruption. In the registration process for the latter, parliamentarians have been accused of selling their signatures in support to potential candidates for thousands of dinars. Similarly, there have been accusations of illegal campaign contributions.’ (BTI 2016, 11) As depicted in Figure 1 below, political parties (66 per cent) and the police (69 per cent) are perceived to be corrupt by most of the respondents. Media, judiciary and public officials and civil servants are perceived to be corrupt by still about half of them.

Figure 1: Perceptions of corruption, by institution: Percentage of respondents that think an institution is corrupt or extremely corrupt (2013)

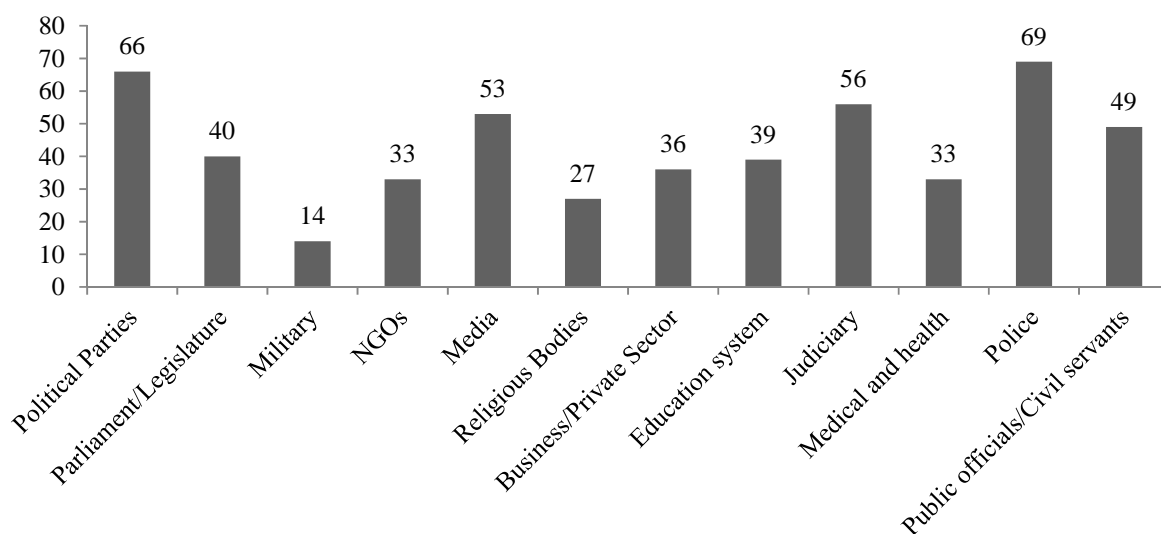


Diagram based on Transparency International 2013.

8. Legal provisions on corruption and related issues

Tunisia, still under Ben Ali, ratified the UN Convention against Corruption in 2008 as part of the country’s modernising discourse (Freedom House 2012). However not only was corruption still rampant at the top end of the system, but prosecution for it was scant. The judiciary was politically controlled and most judges lacked any independence. Politically motivated verdicts were thus the norm, and an important part of the repression repertoire of the regime (Paciello 2010, 2).

The executive branch controlled the highly obscure budgetary process, which was not subject to substantial legislative scrutiny (Freedom House 2011b). Even though the statistical data presented to the outside world indicated good numbers, during the transition process hidden and manipulated statistical reports and studies on the Tunisian economy came to light. Data is now released to the National Statistics Institute and the deputy prime minister for anti-corruption purposes (Pickard and Schweitzer 2012, 46).

The 2014 Constitution of the Tunisian Republic²⁶ tackles corruption in the context of several legal articles. The state is now obligated to 'combat tax evasion and fraud' and to 'ensure the proper use of public funds and take the necessary measures to spend it according to the priorities of the national economy, and prevent corruption and all that can threaten national resources and sovereignty' (Article 10). However the Assembly is granted only two months to review the budget proposal, even though the Organisation for Economic Cooperation and Development (OECD) recommends a minimum of three months being given (Article 66).

Even more problematic are the provisions relating to immunity. Members of parliament (MPs) are granted immunity from arrest or criminal prosecution, unless the immunity is specifically lifted (Article 68). If an MP is apprehended in the course of committing a crime, the 'Speaker of the Assembly of the Representatives of the People shall immediately be notified and the member shall be released if the Bureau of the Assembly so requests' (Article 69). There is no further provision regulating the lifting of immunity, which can lead to its abuse (International IDEA 2014, 64).

In matters of disclosure and transparency, 'the President of the Republic, Head of Government, member of the Council of Ministers, or member of the Assembly of the Representatives of the People, or member of any of the independent constitutional bodies or any senior public position must declare their assets according to the provisions of the law' (Article 11). Thus MPs are put in a position of deciding the details of (their own) assets declarations. Article 11 does not specify whether unofficial sources of income have to be named, even though this is essential information for detecting bribery or illicitly enrichment and there is no disclosure requirement for family members either (International IDEA 2014, 119).

At this point in time Tunisia does not offer adequate whistleblower protection, even though there has been pressure applied from both the donor community as well as civil society in this regard (OECD 2013a, 110). A controversial draft organic law on special procedures concerning reconciliation in the economic and financial fields ('Reconciliation Bill') that would grant a general amnesty to public officials accused of corruption, in exchange for the return of stolen public money and fines to be decided by a newly created administrative Reconciliation Commission, was put forward by President Beji Caid Essebsi in March 2015 (*The New York Times* 2015). The draft bill, which is currently in parliament for ratification (Al-Araby 2015a), has caused ongoing public debate and even led to public protests (Al Jazeera 2015b). Some critics claim that it would override the new constitutional system of transitional justice and undermine the work of the newly created anti-corruption bodies (*The New York Times* 2015). After widespread concerns were aired, the Venice Commission (2015) was asked to weigh in; it has voiced far-reaching concerns regarding the independence, impartiality and lack of public participation of the new body that would take over substantial tasks from the main transitional one, the Truth and Dignity Commission (IVD).

²⁶ Quotes come from the unofficial translation of the Constitution of the Tunisian Republic by UNDP and International IDEA.

Corruption also remains problematic within the private sector, where entry barriers enshrined in legislative provisions remain in place within the Investment Incentives Code, sectoral legislation pertaining to the Service sectors (such as health, telecommunication, education etc.), and within Competition law. (WB 2014, 129) Over 50% of the economy thus remains either closed or subject to continuing entry barriers. (BTI 2016, 18) There is currently no legislation criminalizing corruption in the private sector. (BTI 2016, 34) Bribery is still a common feature of everyday life and according to the World Bank 2014 Investment Climate Assessment 24% of firms report that it is still necessary to speed things up with informal payments. (BTI 2016, 19) The high percentage of informal sector employment (up to 40% of all private sector workers) that many firms use to circumvent relatively inflexible labor regulations support the assumption that illegal practices connected with cronyism and rent-seeking persist in the Tunisian economy. (BTI 2016, 19)

9. Anti-corruption provisions within state institutions

Anti-corruption law under Ben Ali was enforced by the National Audit Office (Cour des Comptes), which had broad powers to monitor public enterprises for financial irregularities and was charged with auditing public sector accounts. Being tied to the Council of State, chaired by Ben Ali, its independence was, however, questionable at best (Freedom House 2011b). The Disciplinary Financial Court oversaw that public authorities were abiding by financial laws and regulations, but was of equally dubious independence (Freedom House 2007).

In 2011, as noted earlier, the first temporary Anti-Corruption Commission was created. After seizing the former regime's archives, the commission started investigations in 500 cases (out of 11,000 received complaints) – of which 400 were presented to the public prosecutor for further investigation. It found abuses of procurement regulations, sales of government land and privatisations of state-owned enterprises that benefitted members of the Ben Ali family or his partners, which the commission traced back to the lack of controls in place and the concentration of powers in the executive branch (OECD 2013b, 86). According to Samir Annabi, the commission only has limited and insufficient resources (for example, no forensic accounting expert) and has struggled to gain access to necessary equipment, offices and funds (*The Economist* 2013; Al-Araby 2015b). In some cases, such as regarding the sale of government land, magistrates straight out refused to launch investigations. At other times judges did not report on the process of investigation or, as some suspect, members of the old regime still exercised influence over judicial decisions. Several judges have been dismissed since the revolution for their alleged implication in corruption; however this has been done without proper investigative and legal procedures being followed.²⁷ In the meantime, a new team of judges has been trained in conducting financial investigations and has taken over responsibility for

²⁷ Interview with EU expert (held 18.12.2015).

corruption cases from the Ben Ali era – thus increasing the investigative capacity of the Commission, it is hoped (*The Economist* 2013).

The 2014 constitution created a new Good Governance and Anti-Corruption Commission as a permanent follow up to the temporary one; it is to ‘contribute to policies of good governance, and [help in] preventing and fighting corruption’ (Article 130). It is furthermore ‘responsible for following up on the implementation and dissemination of these policies’, and for the ‘consolidation of principles of transparency, integrity and accountability’ (Article 130). Members are to be elected for a single term of six years, with one-third of them being changed every two years. However the effectiveness of this commission is heavily dependent upon cooperation with the other agencies involved, and indeed on their continued commitment to fighting corruption (International IDEA 2014: 100). No specific anti-corruption courts currently exist, and the new commission has yet to actually be created (Al-Araby 2015b).

The constitution created a Court of Audit as a supreme audit institution. It is tasked to ‘oversee the sound management of public funds in accordance with the principles of legality, efficiency and transparency’ (Article 117), and to ‘assist the legislative and executive powers in overseeing the execution of the Finance Law and the closure of the budget’ (Article 117). The court prepares an annual report, which is submitted to institutional actors and made publicly available. The organisation, mandate and procedures of this court are regulated by law, leaving the specific details to the promulgation of organic laws (Article 117; International IDEA 2014: 83). Article 109, meanwhile, states that ‘all kinds of interference in the functioning of the judicial system are prohibited’.

10. Personal autonomy and collective action capacity

While under Ben Ali corruption became the subject of rumour and general discontent, it was nonetheless not openly discussed for fear of repression (Bertelsmann Foundation 2012, 17). Potential whistleblowers risked persecution or imprisonment. Widespread fear undermined the development of a societal basis on which to act against corrupt practices, and no anti-corruption NGO was permitted to exist (Freedom House 2007). The national chapter of Transparency International was forced to operate out of Lebanon and Morocco when conducting investigations within Tunisia, and the only anti-corruption initiatives active within civil society were found on internet sites located outside of the country itself (Freedom House 2011b).

Since early 2011 Tunisia has witnessed a proliferation of NGOs, many of whom boast an anti-corruption agenda (Schäfer 2015, 11). Ones previously forbidden (such as Transparency International) have now started to work from inside the country itself (Freedom House 2012). NGOs still have a comparatively good reputation, with only 33 per cent of Tunisians seeing them as corrupt (Transparency International 2013). Several Tunisian actors – such as the Anti-Corruption Commission, Office of the Secretary General of Government, Ministry of Justice – are members of the Arab Anti-Corruption and Integrity Network (ACINET). It brings together both

governmental and non-governmental entities for cooperation and consultation in the fight against corruption, and provides a platform through which to facilitate information exchange and policy dialogue among its constituent members (ACINET 2015).

The media was strictly controlled under Ben Ali, and most broadcasting corporations belonged to his family. Self-censorship was common, and freedom of expression extremely limited (Paciello 2011, 2). With journalists who tried to report on corruption often being imprisoned and the internet tightly monitored, Tunisia earned the dubious title of ‘Enemy of the Internet’ in 2009 (Freedom House 2011b).

Since 2011, the number of magazines, newspapers and television channels has multiplied (Schäfer 2015, 11). However progress towards an independent and free press has been uneven. While the constitution of 2014 contained numerous protections for media independence, some of its provisions left open the possibility of restricting journalistic freedom. There have been incidents where the (former) ruling party Ennahda has exerted undue pressure on media stations. After 2011, Tunisia’s score in the Freedom of the Press Index changed from ‘not free’ to ‘partly free’ (Freedom House 2015b). However Reporters Without Borders ranked Tunisia 126th on their World Press Freedom Index (2015), a position only slightly better than during the Ben Ali years. More than 50 per cent of Tunisians see the media as either corrupt or extremely corrupt (Transparency International 2013).

11. Change in specific anti-corruption-related indicators

Table 10 Corruption indicators 2007–2015

Indicator	2007	2008	2009	2010	2011	2012	2013	2014	2015
Freedom House – Anti-Corruption and Transparency ²⁸	3.08	-	-	-	2.83	3.48	-	-	-

²⁸ The Freedom House ‘Anti-Corruption and Transparency’ Transparency indicator ranges from 0 (worst) to 7 (best), and subsumes the categories ‘environment to protect against corruption’, ‘corruption’, ‘anti-corruption framework and enforcement’, ‘enforcement’, citizen protections against corruption and ‘governmental transparency’ (Freedom House 2011a). <https://freedomhouse.org/report/countries-crossroads/2012/tunisia>

TI – Corruption Perception Index ²⁹	-	-	-	-	-	41	41	40	-
Index of Economic Freedom – Freedom from Corruption ³⁰	49.0	46.0	42.0	44,0	42.0	43.0	38.0	39.2	41.0
World Press Freedom Index ³¹	57.00	48.10	61.50	72,50	60.25		39.93	38.69	38.68
Worldwide Governance Indicators – Control of Corruption ³²	-0.11	-0.18	-0.11	-0,15	-0.17	-0.15	-0.14	-0.09	-

Anti-corruption indicators for Tunisia should be handled with care. The recent change in the political system (with all of its implications of improved media coverage, a higher degree of governance transparency and so on) makes it difficult to compare the pre- and post-revolution data. Furthermore, the rather positive results relative to corruption indices under the Ben Ali regime are representative of its ability to project itself as compliant with international regulations.

²⁹ Transparency International: '2014 Corruption Perceptions Index – Results'-- Results. Scale ranges from 0 (highly corrupt) to 100 (very clean). Data before 2012 is not comparable over time.

<http://www.transparency.org/cpi2014/results>

³⁰ The Heritage Foundation (2015): Ranging from 0 (worst) to 100 (best).

<http://www.heritage.org/index/visualize?countries=tunisia&type=9>

³¹ Reporter Without Borders (2015): World Press Freedom Index. Scores range from 0 to 100, in which 0 represents total respect for media freedom. <http://en.rsf.org/press-freedom-index-2013,1054.html>

³² World Bank (2015): 'Worldwide Governance Indicators: Control of Corruption'. Estimate of governance ranges from approximately -2.5 (weak) to 2.5 (strong) governance performance.

<http://info.worldbank.org/governance/wgi/index.aspx#home>

IV. DETAILED DIAGNOSIS

12. The relationship between EU conditionality and governance in Tunisia

The following analysis of the EU's impact on governance reforms in Tunisia is structured around the distinction between the period of authoritarian rule under former President Ben Ali and the considerably more tumultuous transitional period in the aftermath of the Arab Spring. The first two sections thus deal with the questions of, first, whether EU conditionality influenced the incentives that the Ben Ali regime had to reform and, second, how it affected the capacities of local actors operating in an extremely repressive environment. The subsequent two sections then deal with the same two questions from the viewpoint of the transitional period.

12.1 Governance under Ben Ali

Up until the sudden and unexpected popular uprising that started in December 2010 and ended with Ben Ali's fall soon thereafter, Tunisia had been a stable and reliable cooperation partner for the EU. The country, while not overly aid dependent, was entwined in close economical relationships, with the EU being its main import and export market, as well as in political ties (the country was a French colony up until the 1950s). Having undergone structural adjustment in the 1980s and 1990s under the guidance of IFIs, the Ben Ali regime had embraced economic modernisation – and received continuous support in the form of general and sectoral budget support to that end. International rankings such as the Davos Competitiveness Ranking, the Doing Business surveys as well as Transparency International's Corruption Perception Index (CPI) seemed to support the narrative of an 'economic miracle', one characterised by strong economic growth, an expanding middle class and a modern, tech-savvy government (Hibou, Meddeb and Hamid 2011, 12).

This success story is summarised in a 2011 evaluation of budget support to Tunisia, which stated that:

Over the evaluation period [1996–2008], important results have been registered. Tunisia has achieved macro-economic stabilisation (controlled inflation, contained fiscal deficit, and reduced external debt) while maintaining relatively high levels of economic growth (average growth rate of almost 5 per cent per annum). As a result of trade liberalisation and economic integration policies, of taxation and custom reforms, and of the gradual opening of the domestic market, foreign trade has almost doubled and exports have increased at a higher rate than imports. The restructuring of the financial sector and reforms in the private sector and business environment have led to significant improvements in terms of banking and insurance performance indicators, to a reduced role of the State in the economy and to a huge increase and diversification of private enterprises (which have tripled) as well as to an improved competitiveness of the export

sectors. Significant improvements in the institutional, strategic and financial management of the higher education sector have led among other things to significant quantitative increases (and territorial equity) in access to education (OECD 2011, 24).

The report attributes at least some of these achievements in the areas of growth, poverty reduction, private sector development and the modernisation of the educational system to joint budget support by the EU, the World Bank and the AfDB. As we have seen in Section II, an important part of more technical-oriented good governance conditionality in these programmes was directed at the PFM system in line with government priorities – which was said to show signs of increased overall accountability. The report also notes, however, the lack of progress in the onshore, domestic sector, in which a low level of government commitment hinders competition and transparency (OECD 2011, 24-26).

Thus the combination of economic growth, a commitment to reform by the government (which seemed to exhibit a strong drive to modernise the economy), a generally well thought of PFM system, especially when contrasted to the low performance in the MENA region more broadly (PEFA 2010, 67), as well as mostly competent administrative staff led to overall positive evaluations of the country's performance – as well as of EU efforts to promote good governance. As the previous chapters have shown, however, the image of a successfully modernising state, working in cooperation with and through the help of the EU, disguised not only profound weaknesses in the political aspects of good governance but also difficulties in the relationship between the EU and the regime. When the EU attempted to address these difficulties it was repeatedly thwarted in the areas of civil society support, improved media coverage and justice sector reform.

Thus conditionalities worked within the circumscribed area of budget support, which embedded very technical good governance ones that could be met by the government and that were negotiated, as noted, with a view to national development priorities. They concerned issues in which the government had a genuine interest not only in cooperation itself, but in modernising the particular aspect of its administration that tied into these conditionalities in the first place.³³ Where issues were deemed more sensitive, as in the case of increased accountability, conditionalities failed to exert influence – but without it resulting in any meaningful retribution from the EU. In other cases where conditionalities were not met, like justice support, it resulted in the cancellation of a programme that the Tunisian authorities had shown resistance to in the first place.³⁴

Several factors come together to explain this contradiction. One of them was the strategy on part of the Tunisian regime itself, which cleverly leveraged their reformist economic orientation. As mentioned above, both statistics and international rankings seemed to corroborate this modernising narrative. However, these rankings relied on statistics and information provided by the regime itself – statistics whose validity was not generally questioned by the EU. As we saw

³³ Interview with EU expert (held 03.12.2015).

³⁴ Interview with EU expert (held 22.01.2016).

in Section III, statistics and reports could be and were repeatedly falsified and manipulated by the Ben Ali regime. At the same time, the regime directed assistance and attention to more technological projects like performance reforms, inflation targeting for central banks, PFM reforms and projects that fit the narrative of a modern, technologically advanced country.³⁵ This depiction was not only accepted but actually embraced by the international community, including by the EU – which time and again praised Tunisia for its progress with economic reform. While in the aftermath of the US's democracy promotion agenda in the Middle East the Ben Ali regime did find itself under pressure to entertain more political openness and work on governance projects with donors, according to experts this space all but closed after 2005 – with dwindling room for the addressing of sensitive domestic issues, also by international organisations. When the global financial crisis forced the country to seek out increased bilateral aid and closer cooperation with the EU, both sides decided to engage in less confrontational matters.³⁶ Thus, on paper the regime was doing everything it was supposed to do from the viewpoint of the EU. With jointly negotiated conditionalities that contained no political governance ones and with the general objectives of budget support being met, the latter was never cut or leveraged so as to obtain greater domestic political space. As one expert explained: 'All the reports, all the indicators were perfect on paper. That is why Tunisia was never seen as such a case where we had to intervene strongly. On paper there was quite good expertise on finance and macro-finance.'³⁷

If viewed within a regional context, that assessment was not entirely misplaced. While consistently repressive and authoritarian in its nature and methods of rule, Tunisia did still stand out among its neighbours as a country of relative prosperity – with poverty figures much lower than the regional average, seemingly thus being an oasis of stability in a region often wrecked by conflict. The occurrence of poverty in the country was substantially reduced, from over 20 per cent in 1980 to around 4 per cent in 2000, cutting the overall poverty rate by close to 80 per cent. These developments also benefitted the more disadvantaged regions in the interior to a certain extent, where the poverty rate fell from 30 per cent to slightly over 8 per cent (Ayadi et al 2005, 3).

While the corruption of the first family did not go unnoted, it was indeed not something unusual for the region at large. It was also as we saw in Section III concentrated in the domestic private sector where predatory elites connected to the Ben Ali clan exerted disproportionate influence due to regulatory capture. However, corruption in this context was predominantly seen as negatively impacting the business climate – and not EU aid itself. As Hibou et al describe it:

[...] The rate of corruption in Tunisia was merely at a moderate level, one considered quite acceptable for a developing country. [...] We must however note that the question of corruption did not wait until 14 January to worry the Europeans, who, in their agreements spoke of it in the

³⁵ Interview with EU expert (held 22.01.2016).

³⁶ Interview with EU expert, (held 22.01.2016).

³⁷ Interview with EU expert, (held 11.12.2015).

euphemistic form of a need to create an 'improvement in the business climate' aimed at fostering private investment (Hibou, Meddeb, and Hamid 2011, 42).

This assessment of corruption in light of its impact on investment mirrors the framing it gave to good governance in the context of the CSP, where its absence was described as mainly negative with view to its detrimental impact on the economy. The prevailing preference at the EU level was thus for the stability and economic viability of the country. As long as Tunisia remained stable, and corruption did not visibly touch EU aid, there was no great interest in ascertaining what lay beneath the surface. This was especially true, since the positive elements of the story, like economic growth and high levels of FDI, made convincing statements to those willing to believe the modernisation fairy tale: 'Indeed there were some things not picked up at all levels, but there was not a great interest in knowing what was going on. It was stable, if there is no problem, should we really start looking for one?'³⁸

The third cluster of factors revolves around the instruments that the EU employs, including conditionalities. As has been alluded to above, the fact that these conditionalities are jointly negotiated reduces their effectiveness. This problem is not confined only to Tunisia, but is a more general one of the Action Plans themselves:

Joint ownership, a core principle of the socialisation mechanism of Europeanisation, is considered to undermine the effectiveness of conditionality. On the one hand, 'it reduces the likelihood that bilateral Action Plans reflect the EU's objective precisely in relations with those countries which are furthest from conforming to the conditions preferred by the EU' (Sedelmeier 2007: 200). Governments that do not share the EU's democracy and human rights agenda, for instance, can and do minimise the role of political conditionality in their Action Plans. On the other, it is 'at odds with the tough monitoring and reporting by EU institutions that was a precondition for reform-oriented forces to mobilize pressure against reform-adverse governments in East Central European accession governments' (ibid.). (Schimmelfennig 2012, 19).

Thus, the result was the watered down and vague language employed with respect to the ENP Action Plan, as discussed in Chapter 2. Good governance and human rights were only included in the first place due to pressure by the European Parliament and the Commission. But without being linked to specific benchmarks or allocation criteria, they failed to trigger any meaningful reform in Tunisia (Voss 2010, 145). It seems that the only time the threat of suspension was ever used was in the context of the second instalment of the justice sector programme, which succeeded in seeing it implemented despite pressure from both the Tunisian government and the EU in Brussels – albeit with it only to be subverted by regime manipulation later on and then subsequently abandoned.

Not only were the conditionalities themselves weak during the Ben Ali years, they also lacked proper positive incentives as a corollary. Compliance with political governance conditionality was

³⁸ Interview with EU expert (held 22.01.2016)

potentially costly for the authoritarian regime of Ben Ali and is for his fellow Arab dictators. But the EU could neither offer 'the most important incentive for compliance – the prospect of membership' (Schimmelfennig 2012, 18) nor alternative rewards such as the free movement of goods and people that are at the heart of the accession incentives, due to the protectionist interests of individual member states. In the case of Tunisia this applied in particular to agricultural products, such as olive oil, which were regulated by a complicated and outdated quota system designed to protect the interests of Italy and Spain (among others).³⁹ These sentiments were echoed by Hollis:

The removal of tariff and non-tariff barriers to trade in manufactured goods – wherein the Europeans enjoyed the advantage – was to proceed rapidly [following the Barcelona Declaration in 1995], whereas liberalization of trade in agricultural products, the main export of the North African states aside from energy, was to be phased in more slowly. For this imbalance the EU was to blame, because the south European states lobbied successfully against opening up the EU agricultural sector to unfettered competition from North African producers. In terms of capital flows, the EMP did encourage investment in the MPCs, yet in the name of free market economics the MPCs were expected to open up their economies to European companies with the capacity to outperform local producers and so drive them out of business. Crucially, under the EMP arrangements there was to be no free movement of labour between the MPCs and Europe (2012, 83-84).

The ENP did not fare much better with regard to offering sufficient positive incentives to offset the political costs of reform either:

The menu of measures from which the MPCs were supposed to choose a shortlist for adoption in the form of 'Action Plans' was drawn up by Brussels. As the Egyptians argued, they could not make an informed choice without themselves translating and wading through the whole acquis. Rather than do this, the Egyptians simply resorted to hard bargaining, and in the process avoided accepting any internal political and judicial reforms that they did not want (Hollis 2012, 86).

Tunisia, while more willing to attempt harmonisation where it suited its economic interests, was similarly successful in subverting the inclusion of political reform measures into the Action Plan.

The problem was hence threefold. First, the structure of the ENP pre-supposed the fundament of shared values, with governance problems being due to a lack of capacity rather than to a divergence in basic ruling principles (irrespective of whether this was in fact really believed to be true by the EU or not) (Tocci 2007, 5). Therefore the incentives offered in exchange for governance reforms, ones that would have fundamentally challenged the ability of authoritarian rulers to maintain power, were in fact not only insufficient but actually came themselves with heavy implementation costs. This came in combination with the fact that the EU, on the one hand, preferred engagement – also with authoritarian rulers – to confrontation, and was hence

³⁹ Interview with European expert, (held 03.12.2015).

hesitant to use either the negotiations for budget support conditionalities to exert pressure via the variable tranche mechanism or to call on the conditionalities embedded in the Action Plan as leverage for the disbursement of funds. On the other, the EU also had interests of its own in the region and in Tunisia – ones that further reduced its leverage there and granted further leeway to Tunisia to circumvent political conditionalities. Thus the desire to curb illegal migration and to fight terrorism resulted in a securitisation of the relationship, wherein a stable Tunisia became an important asset (Tocci 2007, 11). The conditionality embedded in the eligibility criteria for budget support, the negotiated conditions of the variable tranche and the conditionalities embedded in the Action Plan were thus never actively used to further good governance beyond its technical components in PFM reform. They did not, therefore, alter the reform incentives facing the Ben Ali regime.

12.2 *EU capacity building under authoritarianism*

While neither the ENP nor the specific conditionalities had much effect on the incentives for domestic actors in terms of good governance beyond technical PFM reforms, there was some amount of capacity building in terms of civil society. As was the case with political governance in general, very little space was available to support civil society within the political realm. The Tunisian regime under Ben Ali at times put a stop to projects directly dealing with democracy and human rights, such as was the case with the long suffering Ligue Tunisienne des Droits de l'Homme (Tunisian Human Rights League, LTDH). But more often, it sought to completely insulate political civil society from receiving support through repression, funding restrictions and legal harassment. According to Voss (2010), there was a deliberate strategy to keep NGOs underfunded so as to render them unable to muster the necessary administrative capacity to be in compliance with EU project tenders. Consequently no tenders for the EIDHR II had been called in Tunisia, which remained ineligible up until 2011.

Nonetheless, the EU did still engage with local civil society – though it was subject to some of the same restrictions that the latter itself had to deal with. One EU expert described how similar intimidation tactics common against NGOs were used against members of their delegation, while another recalled that it was difficult to work in the interior regions, outside of the capital city and to directly engage with beneficiaries without local authorities also being present.⁴⁰ Some engagement took place nonetheless, even if in areas that were non-political and that dealt more directly with the livelihoods of people and with facilitating trade and access. Non-state actor programmes were named as examples where more subtle engagement did take place, being arenas that enabled the EU to gain a better understanding of the broader environment and to work on a local, participatory level on less politically sensitive issues.⁴¹ At the same time, EU experts considered the fact that they engaged with certain political NGOs, such as the Tunisian Association of Democratic Women, to be a form of protection against state harassment.

⁴⁰ Interview with EU expert (held 03.12.2015).

⁴¹ Interview with EU expert (held 11.12.2015).

The then abandoned Justice sector programme also was intended to strengthen the capacity of local actors within the field of justice by training and exchange. Until it was abandoned in 2010 it trained several thousand people in Tunisia, among them members of the lawyers syndicate that was instrumental in the 2011 uprising.⁴²

Lastly, capacity building took place within the technical assistance instruments such as Twinning and Sigma (together with the OECD), but they mainly focused on strengthening administrative capacity.

12.3 *EU impact after the uprising*

The fall of the Ben Ali regime brought many changes not only to the country itself but to donor–government cooperation too. First and foremost among these was the fact that the new regime now openly welcomed donor support, not only financially but also in the realms of political reform and civil society support too. These changes facilitated more open communication between donors and the new administration, but also resulted in a loss of coherence on the Tunisian side in terms of contact points and strategic priorities – not to mention a multiplication of donor initiatives that were not always well coordinated.

At the same time the EU, chastened from its relatively uncritical association with the Ben Ali regime, not only welcomed democratic reforms and vowed to support them but also was more assertive itself in putting forward reforms deemed necessary. Part of this demand for reform was based on the development of the more for more conditionality approach – whereby only those countries that engage in reforms are to profit from additional positive incentives, such as increased mobility, in the form of the mobility partnerships, as well as market access through the DCFTAs. The EU also sent out an Elections Monitoring Observation Mission for the October 2011 elections, a first in Tunisia and only the second (after covering the Palestinian elections of 2006) ever in the region (Balfour 2012, 25). The EU thus expanded its repertoire of incentives, all the while clarifying the expectations and principles that guided them. While the EU's continued reluctance to use its economic weight casts some doubt on the overall impact that these changes will have in the region (Balfour 2012, 29), in Tunisia at least it found an open door.

In addition to the inclusion of more governance conditionalities, an important new departure was the push for increased transparency. Next to government publications and statistics, the EU sought greater verification through access to background reports and studies, by bringing in external experts and by quantitatively verifying reports on budget allocation.⁴³ Transparency more generally became a bigger project and programme component: 'It is almost a rule now that

⁴² Interview with EU expert (held 03.12.2015)

⁴³ Interview with EU expert (held 11.12.2015).

we integrate transparency and accountability measures in pretty much everything.⁴⁴ As part of the SPRING programme, a new justice sector reform project was also launched.⁴⁵

Important reform measures intended to anchor good governance and especially anti-corruption in the regulatory framework of Tunisia were also included under the auspices of budget support. Conditions included implementing legislation in the media sector, transparency, freedom of the press and access to information. Other conditions concerned transitional justice.⁴⁶ An important part of budget support conditionality with direct effects on anti-corruption was the creation of the aforementioned temporary Anti-Corruption Commission in November 2011. A concrete budget support conditionality was not only that the agency be established, but also that funds be allocated and a president nominated to ensure its viability. The EU not only aided this agency with capacity building, but by exerting pressure on the government for a law to be included in the new constitution regulating the creation of a more permanent body to eventually follow in its footsteps.⁴⁷

Thus conditionality was an important lever by which to get reforms going, key bodies institutionalised and core provisions included in the constitution. It combined with legal expertise and capacity building, especially where the commission and the constitutional provisions were concerned, as well as with draft laws for constitutional courts.⁴⁸ Positive conditionality within the SPRING programme was also essential in getting the justice sector support programme running once again, with a €25 million budget. The SPRING programme also provided important support to civil society that helped contribute to capacity building, and to enabling at least some NGOs to participate in consultations.

While the conditionality of budget support thus quite successfully supported necessary reforms and fledgling agencies, the positive conditionality approach of more for more still suffers from a lack of adequate incentives to back it up in those cases where the interests of the Tunisian government in assistance and reform do not align with the EU's. This is in part a shortcoming of the instruments themselves, and in part due to the necessity of having individual EU member states comply with the actual delivering of incentives. As Balfour states:

The EU's track record has not been spotless, all the more when the member states are needed to lift protectionist barriers, to spend more resources on the Arab countries, or to expand the quotas of immigrants allowed to enter Europe from the region. The irony of the 'more for more' approach is that neither the High Representative (HR) nor the Commission is responsible for delivering these incentives: all three fields are ones in which the member states are the decision-makers. The new positive tools of the EU's renewed conditionality suffer from a credibility problem before they are even implemented. It comes as no surprise that the HR and the

⁴⁴ Interview with EU expert (held 11.12.2015).

⁴⁵ Interview with EU expert (held 28.01.2016).

⁴⁶ Interview with EU expert (held 11.12.2015).

⁴⁷ Interview with EU expert (held 18.12.2015).

⁴⁸ Interview with EU expert (held 18.12.2015).

Commission have been explaining to the member states, in an unpublished letter of February 2012, how the new conditionality regime would work (2012, 25).

This potential lack of credibility is relevant with regard to all three forms of the incentives embodied in Ashton's three Ms – money, markets and mobility. With regard to money experts suggested that, with EU assistance operating on fixed budgets, there is actually not more money available for Tunisia in the strict sense. Thus the more money goes to Tunisia, the less goes to another country. In the context of the transitional period, the money was freed up by the fact that assistance designated to Syria could be spent elsewhere because no assistance was possible there at the time. Another problem with regard to the money part is the question of how much leverage conditional money itself can buy. As one expert remarked, even €50 million does not grant much leverage – the numbers would rather have to be in the billions – suggesting that EU leverage lies elsewhere: in their soft power exercised through political dialogue and expertise, as well as the concessions that the EU can make with regard to mobility and trade.⁴⁹

The 'market' part of the three M continues to run according to an outdated quota system. Due to defensive interests in the agricultural sector on the part of EU member countries, 'it is a bleak outlook, we cannot follow up the more for more conditionalities, because we do not have more to give'.⁵⁰ Similar problems apply to mobility too, visible in the stalled negotiations for the DCFTA – where the EU's reluctance on offering freer movement has reduced the incentives to negotiate for their Tunisian counterparts (Youngs 2015).

Thus positive conditionalities only work as long as there are actually incentives on offer that are relevant to the partner country. While the more for more approach went in the right direction and did show some signs of success, its overall impact is hard to evaluate. Part of the reason for that is the fact that it remains difficult to properly assess the contributions that the SPRING programme has made to change, due to the lack of detail contained in EU progress reports, which would enable observers to isolate its specific contribution amid other initiatives (Wouters and Duquet 2013, 231).

Budget support conditionalities, by linking concretely measurable reforms to allocations, seem to have demonstrated greater success in pushing forward governance and anti-corruption reforms. However this instrument is also not free from problems, which range from a lack of political will on part of the Tunisian administration, as seems to be the case with some anti-corruption measures, to a lack of capacity in an administration that has not only experienced a considerable amount of flux over the course of the past five years but that at times also lacks the staff and coordination structures necessary to make sense of the complicated language, procedures and requirements entailed in EU assistance (Balfour 2012, 25). An example of this was the troubled creation of the temporary Anti-Corruption Commission, which almost resulted in a suspension of budget support payments due to delays on the part of the Tunisian administration:

⁴⁹ Interview with EU expert (held 03.12.2015).

⁵⁰ Interview with EU expert (held 03.12.2015).

The Tunisian administration has a problem with planning and time. They see the amount and the conditionalities and think it is not that complicated. And the closer you get to the deadline, it becomes more complicated, because the Tunisian administration itself is very complicated, with a lot of steps. It is slow.⁵¹

Lack of administrative capacities and the short time horizons of the transitional governments represented a significant strain on the government's ability to steer development:

Post-independence Tunisia's development strategy was traditionally codified by the government in five-year plans. Debated ahead of the 2010 revolution, subsequent transitional governments with their short tenures have not had the political mandate to formulate such long-term aims. Governments have instead made relatively vague pledges to pay more attention to the long-ignored interior of the country, boost job creation, and improve public services. In the absence of a well-defined development strategy, agreements with international donors have, in some areas, served as road maps and yardsticks for the progress of reforms (BTI 2016, 37).

Thus, presently, the administration is relatively weak and lacks widespread legitimacy. According to observers, it seems to be driven by needs and social pressures on the ground rather than long-term strategies. The openness towards donor initiatives in return means that in the absence of strong and centralised coordination structures, the administration is at times overwhelmed with the multitude of donor initiatives. The lack of coherent priorities that could guide the as of now fragmented administration therefore presents the danger of imposing reforms on a weak and fragmented government that might not be able to fight unrealistic ones, or that is too weak to implement those that might impinge on the interest of other parts of the administration acting as spoilers.

This is not only a problem of weak administrative capabilities, however, but of a lack of donor coordination. Taken together, this has caused the duplication of donor efforts but also exhausted the time and resources of individual administrative bodies. The EU seems to have recognised the restrictions this lack of capacity causes, however, and thus included the desire to 'promote the training of Tunisian officials in EU policies and programmes' as part of the 'governance and administrative reform' priority in the new Privileged Partnership (Privileged Partnership 2014, 20).

12.4 *EU Capacity building after the uprising*

There are a multitude of ways in which EU efforts after the fall of the Ben Ali regime have tried to successfully impact on the capacities of actors on the ground. They can be roughly divided into institutional capacity building and capacity building in the context of civil society support. The CoE's anti-corruption and governance support programme is the most prominent one in the area of interest with regards to institutional capacity building. As Section II has shown, it supported

⁵¹ Interview with EU expert (held 18.12.2015).

both the capacity of the temporary Anti-Corruption Commission as well as anti-corruption capacity building within various government ministries too. In particular it helped in the capacity building of crucial anti-corruption tools, such as Sector Analysis, Corruption Risk Assessment methodologies and the like. The CoE contributed to the creation of Good Governance and Anti-Corruption units in each ministry. It also provided legal expertise, helping in drafting the organic law establishing the permanent anti-corruption body in the constitution, and providing legal expertise with regard to corruption-proofing legislation. A mid-term evaluation assessed that, despite some problems, the programme was likely to achieve a significant impact (CoE 2015, 28).

However the CoE programme specifically, as well as technical assistance intended to strengthen administrative capacity more generally, suffer from the low absorption capacity of their Tunisian counterparts. In addition, the government of Tunisia has not always been willing to lend its full commitment to efforts to establish structures to fight corruption. The temporary Anti-Corruption Commission thus suffered from low technical expertise, low funding and inadequate equipment. Its efforts have been at times diluted by a duplication of structures and responsibilities, most recently by the ad hoc creation of a Ministry for Good Governance and Anti-Corruption – with as of yet unclear funding, staffing and responsibilities that potentially overlap and conflict with the Anti-Corruption Commission (CoE 2015, 28). Also the Good Governance and Anti-Corruption units within each ministry have yet to find a constructive role to play. Staffing to date seems to have not been appointed in a way that suggests either their competence or the government's genuine commitment.⁵²

At the same time, the EU has made strides in its support of civil society, both in terms of funding and capacity building – as well as in terms of cooperative and consultative structures. Capacity building came for example through the EIDHR II, which allows delegations to spend up to 3 per cent of their yearly allocation on such complementary measures as consultations with and trainings for NGOs. This reflects an acknowledgement that making instruments such as the EIDHR II known and understandable for NGOs is an important part of making these instruments more effective (PEFA 2010, 94). But capacity building also serves the purpose of enabling stakeholders and civil society members to have the means and expertise to participate in political dialogue and consultations in the first place. Thus, civil society participated for instance in the EU's dialogue on the new Privileged Partnership together with the Tunisian government. This was not only a way to cross-reference the proposals made by the government, but also to foster transparency and accountability through civil society participation. As one observer explained:

To have civil society contribute to dialogue, they needed to build a strong group of NGOs that needed to be informed enough and have knowledge and be constructive in what they put forward. [...] While they were negotiated, the NGOs sat down with the ministries and the European administration and the ongoing dialogue becomes joint work. [...] We broke away the

⁵² Interview with EU expert (held 18.12.2015).

opinions and cautiousness civil servants had, for them to see that civil society can be constructive. And this consolidated the Tunisian negotiation position.⁵³

The EU's efforts in facilitating communication and exchange between the Tunisian government and civil society is acknowledged by the latter itself, as is the EU's attempt to be as inclusive as possible. Several crucial problems remain, however. On the one hand, inclusiveness is inhibited by the complexities of EU procedures and requirements that de facto exclude a substantial number of NGOs. On the other hand, while the current procedures allow for consultation in principle, in reality no follow up mechanisms are in place to ensure feedback on how civil society recommendations are actually taken into account. No instruments are currently in place to ensure that consultation entails effective mechanisms for participation by civil society. During the negotiations themselves, there is no civil society presence to monitor proceedings – and civil society representatives in the past only received the final document for comment a day before consultations were to take place.⁵⁴ If the EU is serious about enabling Tunisian civil society to play a bigger role in monitoring progress and holding its government accountable, more transparency also on the part of the EU will be a necessary first step:

Civil society is not just a tool to say 'Tunisia has a strong civil society'. We should have a more effective role as an observer at least, we should know what the reporting mechanisms are. How can we hold government accountable, if we do not know the terms of reference for the contracts of the partnership?⁵⁵

Some EU experts, however, remain sceptical regarding the benefits of greater civil society inclusion, especially with regards to the highly complex and technical negotiations of the budget support programmes.⁵⁶

13. Indicators underlying the EU's assessment of progress, consistency

As we have seen in Section II, EU performance indicators under the ENP Action Plan from 2004, valid until being replaced by the Privileged Partnership in 2014, were often vague – with few verifiable indicators and even fewer timetables. Combined with the EU's unwillingness to engage in confrontation and exert pressure via negative conditionality, this meant in fact that the non-achievement of set performance targets did not result in any notable consequences. Instead, the non-achievement of objectives often resulted only in their silent transfer to the next calendar year. Indicators and benchmarks did not become significantly clearer with the introduction of positive conditionality either. It is still not clear according to which indicators the EU internally

⁵³ Interview with EU expert (held 11.12.2015).

⁵⁴ Interview with civil society member (held 22.12.2015).

⁵⁵ Interview with civil society member (held 03.02.2016).

⁵⁶ Interview with EU expert (held 22.01.2016).

assesses progress, since they are not publicly shared. As Wouters and Duquet observe, ‘by not sharing performance measurement and evaluation plans, it has been impossible to track progress of initiatives and to allow for external control on appropriate budgeting’ (2013, 231).

This lack of clear indicators does not, however, only seem to be a problem of making the existing ones publicly available. Instead, as Tunisian government officials complain, their absence also hinders the proper implementation of programmes on the part of the country’s administration. With EU programmes not being sufficiently supported by indicators, numbers and clear results:

[...] there are only generalities and we do not know exactly what programmes should result in. This also causes problems with assessment. As we have no clear expectations, the evaluation cannot be done properly. EU programmes are approved in two meetings within the Ministry of International Cooperation. And it stops there. There is no follow up whatsoever, and that is one of the reasons objectives are not met.⁵⁷

Performance indicators, as embedded in the PAF, are also not publicly available. In terms of PFM reform, the key area for technical good governance, the assessment of the PFM eligibility criterion is carried out according to the PEFA–PFM Performance Measurement Framework. This measures ‘the operational performance of the PFM system using 28 indicators spread over six core dimensions, and evaluates the likely impact of PFM weaknesses on three levels of PFM budgetary outcomes in the medium term’ (EC 2012b, 27).

Table 11: Structure of the PEFA–PFM Performance Measurement Framework

Budgetary Outcomes	
Aggregate fiscal discipline	Effective control of the budget totals and management of fiscal risks contributes to maintaining fiscal discipline
Strategic allocation of resources	Planning and executing the budget in line with government priorities contributes to the implementation of government’s objectives
Efficient service delivery	Managing the use of budgeted resources contributes to efficient service delivery and value for money
Core Dimensions Of PFM Performance	
Credibility of the budget	The budget is realistic and is implemented as intended
Comprehensiveness and transparency	The budget and the fiscal risk oversight are comprehensive, and fiscal and budget information is accessible to the public
Policy-based budgeting	The budget is prepared with due regard to government policy

⁵⁷ Interview with member of the Tunisian administration (held 21.12.2015)

Predictability and control in budget execution	The budget is implemented in an orderly and predictable manner and there are arrangements for the exercise of control and stewardship in the use of public funds
Accounting, recording and reporting	Adequate records and information are produced, maintained and disseminated to meet decision-making control, management and reporting purposes
External scrutiny and audit	Arrangements for scrutiny of public finances and follow up by executive are in operation

Source: https://ec.europa.eu/europeaid/sites/devco/files/methodology-budget-support-guidelines-201209_en_2.pdf

According to budget support guidelines, performance criteria should however be drawn from national strategies, and be mutually agreed upon with the partner government. Evidence suggests that despite this, they have often turned out to be too ambitious in the past (OECD 2011, 21). Thus, in the aftermath of the uprising, the EU saw itself forced to modify its performance objectives several times and to adapt them to a more reasonable pace that took better account of local capacities.⁵⁸

However, with the new Privileged Partnership, it seems that the EU is now moving towards a more verifiable mode of assessing progress. This was also visible in the transition from SNAC I to SNAC II. Following the SNAC I mid-term evaluation that identified the lack of OVIs as a problem potentially inhibiting progress, the CoE rectified this with the inclusion of such OVIs for the second phase of the programme.

14. Corruption in the division of EU assistance

In the years running up to the uprising in 2011, corruption – especially by the first family around President Ben Ali and his wife Leila Trabelsi – had become an increasingly visible phenomenon. As one infamous WikiLeaks report stated:

While corruption in Tunisia may be on a smaller scale than in some developing countries, the political relevance of the rumours is notable because corruption – at least as a topic of public conversation – is a relatively new phenomenon in Tunisia. Conspicuous consumption – from extravagant properties to luxury cars – was not common in Tunisia ten years ago. Tunisians are increasingly frustrated with this new development and are confused about its relevance to their daily lives. Under President Bourguiba, Tunisians focused on achieving a good education and comfortable lifestyle, both goals Bourguiba himself embodied. Today, elite Tunisians boldly, if not publicly, denounce Ben Ali and the Trabelsi family as uneducated and uncultured nouveaux riches whose conspicuous consumption is an affront to all patriotic Tunisians. Some fear that

⁵⁸ Interview with EU expert (held 11.12.2015).

this new phenomenon is sucking the life-blood out of Tunisia – leading to a spiralling educational, moral, social and economic decline.⁵⁹

Despite the increasing visibility of corruption at the top, most observers seem to agree that corruption was not an issue in the management of aid itself. By all accounts, the people staffing the Ministry of Foreign Affairs and the Ministry for International Development – the two main interlocutors of donors – were seen as competent at managing aid and as generally non-corrupt.⁶⁰ This could be interpreted as a deliberate regime strategy of upholding legitimacy in the eyes of international donors. It furthermore mirrors the assessment of financial experts that corruption was predominantly a problem in the onshore domestic economy, and herein mostly in the private sector (OECD 2011). It was in this specific realm where market distortions due to the connected family members of the Ben Ali-Trabelsi clan were particularly blatant (Rijkers et al. 2014).

However, a certain amount of benign negligence – whereby if one got the results that were agreed, one assumed the money was used correctly – in combination with standard anti-corruption clauses in the agreements and regular audits in the context of budget support seems to have been favoured over looking too closely at what was actually happening.⁶¹ Within these parameters, a certain amount of nepotism in the choice of beneficiaries on the part of the regime cannot be excluded and the government at times circumvented the application of stronger selection criteria by imposing its favoured beneficiaries. This was attributed by some to the requirements arising out of aligning aid with national priorities, which grants partner governments considerable leverage.⁶²

After the uprising and subsequent fall of the Ben Ali regime in 2011, corruption by all accounts seems to have increased – as well as to have lost its controlled, centralised nature. According to Transparency International's 2013 Global Corruption Barometer, the phenomenon not only persists in Tunisia but has in fact spread since the fall of Ben Ali. Many report that whereas before corruption was mostly centralised, it is now running rampant at all levels of society – with bribes and petty corruption being particularly on the rise (Choudrey and Stacey, 31). However, there are no indications at present that this corruption has reached the aid budget.

V. CONCLUSION AND RECOMMENDATIONS

Having traditionally entertained close relations with Tunisia's then President Ben Ali, the EU saw itself forced to radically revise its strategy in the pursuit of good governance after the Arab spring

⁵⁹ 06TUNIS1673, 05.07.2005, <http://wikileaks.org/cable/2006/07/06TUNIS1673.html>

⁶⁰ Interviews with EU experts (held 11.12.2015, 18.12.2015, 03.12.2015).

⁶¹ Interview with EU expert (held 03.12.2015).

⁶² Interview with EU expert (held 11.12.2015).

swept away one of the longest-standing dictators in the region. The country has so far managed the transitional period remarkably well, and many observers would agree that the EU has played an important role in supporting the country on its new path. Even though Tunisia successfully elected its first democratic parliament and president under the new constitution in 2014, many challenges nevertheless still remain.

The constitution is intentionally ambiguous, leaving contentious issues for future lawmakers to decide – while ‘fierce battles will ensue over the way it is implemented. Civil society liberals complain that the constitution does not fully guarantee the pre-eminence of individual rights. The government has recently jailed a small number of activists. The constitution and new anti-terrorism laws offer the military greater impunity’ (Youngs 2015). The legal framework to fight corruption still leaves much to be desired, with whistleblower protection still missing, the lack of criminalization of private sector corruption, no functional law on asset declaration that confirms to the constitutional stipulations, and no provisions for civil servants to publicize misconduct. (BTI 2016, 34) Since the new administration, comprised of many members of the ancient elite, has taken office, many observers have noted a resurgence of nepotistic and clientelist practices that may threaten the gains the country has made in its fight against corruption. In the interior regions, a new wave of protests has broken out to draw attention to the still-destitute situation of many of the region’s unemployed – the same grievances that ignited the original uprising in 2010. As such the country will continue to face many both new and indeed old challenges in the years to come, and the EU will have to decide how best to deal with them, whether its instruments are up to the task and how its toolkit can be employed to maximum effect.

However, the transition is as of yet young, and it will take the years to come to see whether the EU’s strategy for supporting good governance and anti-corruption will bear fruit. For these efforts to succeed it will be crucial that the government of Tunisia continues to show the political will necessary to push forward the development of anti-corruption and good governance, on the one hand. But on the other the EU will need to demonstrate its commitment to these reforms in terms of its programming, but also its willingness to punish attempts at reversing the gains made so far.

Stemming from interviews with EU experts, civil society activists and government officials, as well as the secondary literature on the country, a few recommendations on how best to proceed can be distilled here. These can be roughly grouped into five categories: (i) Transparency (ii) Complexity (iii) Conditionality (iv) Donor Coordination and (v) Policy Dialogue.

(i) Transparency

While civil society activists have commended the EU’s recent attempts at greater transparency and inclusiveness, especially through increased consultation, the lack of transparency still remains a crucial problem. The shortfall in publicly available information on performance measurements, as well as evaluation plans, in alignment with the fact that key documents are negotiated behind closed doors without ever becoming more widely available hinders public discourse, citizen participation and civil society involvement in holding governments

accountable. As one civil society member remarked, they cannot monitor whether the government lives up to its agreements if they have no access to the negotiations – or to the documents that contain detailed indicators and targets. Thus the EU should make both the PAFs and other relevant documentation publicly available.

(ii) Complexity

EU development assistance, with its overlapping and often confusing policy frameworks and its diverse array of instruments, should strive to reduce the amount of white noise that this complexity creates. Confusion regarding complexity seems to be a problem both at the level of the Tunisian administration as well as at that of civil society. The EU should therefore strive to clarify and simplify its complex rules, instruments and requirements for beneficiaries within both government ministries and civil society.

(iii) Conditionality

One recommendation that especially practitioners made was the importance of conditionalities that are realistic, and that define progress based on local necessities – and not on abstract and complex project criteria. This ‘aim low, but for effectiveness’ approach includes realistic PAFs, conditionalities that take account of actual state capacities and attention being paid to fixing basic problems and dysfunctions. An additional requirement is addressing the most urgent needs on the ground. However conditionalities, if employed, also need to be paired with adequate incentives in terms of market access and mobility.

The corollary to better incentives is, however, a greater willingness to punish fundamental violations and divergences from the reform path. This can include a more efficient use of the variable tranches with appropriate anti-corruption and good governance benchmarks, but also more outspoken condemnation of any violations. While the EU does not see its role as lying in making open proclamations, being more outspoken in dealing with divergences would enhance its credibility among partner countries’ societies.

(iv) Donor Coordination

Lack of donor coordination resulted at times in the unnecessary duplication of reform efforts. The EU should strive, therefore, to further institutionalise reform efforts, as have been initiated in the context of the CoE programme undertaken together with the UNDP and the OECD.

(v) Policy Dialogue

Despite the fact that practitioners have identified it as one of the most effective avenues of EU influence available, the new Privileged Partnership does not delineate policy dialogue on good governance and anti-corruption as a priority area. A clear commitment to anti-corruption at the highest diplomatic levels would go a long way in furthering its implementation on the ground.

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Interviews⁶³

Interviewpartner	Date
EU expert	01.12.2015
EU expert	03.12.2015
EU expert	11.12.2015
EU expert	18.12.2015
EU expert	22.01.2016
EU expert	28.01.2016
Civil Society member	22.12.2015
Civil Society member	03.02.2016
IFI in Tunisia member	14.12.2015
Anti-Corruption Commission member	21.12.2015
Government administration members I & II	21.12.2015

⁶³ In order to protect the identity of the interview partners, all interviews have been anonymized