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# **Diffusion of European Norms**

Adoption of the European principle of rule of law by Georgia and Ukraine

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# Abstract

Several founding democratic norms of the European Union (EU) may nowadays be found in their emerging stage in the post-Soviet countries outside of the Union's borders. This is an indication that norms may get diffused, float around the continent and find a fertile soil in a new environment. Thus Georgia, located thousands of kilometers away from the EU, is highlighted as a success story of its cooperation with the EU on transformations in the sphere of rule of law. Ukraine, on the other hand, is lagging behind, despite its geographic proximity to the Union and membership aspirations. This thesis examines the process of diffusion of the European principle of rule of law in Georgia and Ukraine, within the framework of the European Neighborhood Policy (ENP). The study, in addition to revealing the driving forces of the ENP, also focuses on the country-specific factors which may hinder or facilitate adoption of a diffused norm. The main findings of the study point out that the monolithic composition of the ruling elite and the complexity of geopolitical and economic situation in a country may increase the dynamics of the diffusion process.

*Key words:* Georgia, the European Neighborhood Policy (ENP), norm diffusion, norm "life cycle", Ukraine

*Words:* 19 996



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## List of Abbreviations

AA	The Association Agreement
CEE	Central and Eastern Europe
CoE	The Council of Europe
DCFTA	The Deep and Comprehensive Free Trade Agreement
EaP	The Eastern Partnership
ENP	The European Neighborhood Policy
EC	The European Commission
EU	The European Union
IMF	The International Monetary Fund
GSP+	The Generalized System of Preferences +
KGB	The Committee for State Security (national security agency in the Soviet Union)
NATO	The North Atlantic Treaty Organization
OSCE	The Organization for Security and Co-operation in Europe
PCA	The Partnership and Cooperation Agreement
TI	Transparency International
TEU	The Treaty on European Union
UN	The United Nations
VC	The Venice Commission

## Chronology of main cooperation milestones: EU – Georgia

Date	Milestone
22 April 1996	The EU – Georgia Partnership and Cooperation Agreement (PCA) was signed. It entered into force on 1 July 1999
14 June 2004	Georgia joined the European Neighborhood Policy (ENP)
22 July 2004	A first rule of law mission in the context of the European Security and Defense Policy (ESDP) was launched for Georgia. Rule of Law Mission to Georgia (EUJUST THEMIS) was aimed at establishing a strategy of the reform process in the criminal justice system
1 January 2006	The EU granted Georgia General System of Preferences + (GSP+); it was extended in 2008. Within this program Georgia gets preferential access to the EU market through reduced tariffs
14 November 2006	Mutual agreement and formal approval of the EU – Georgia Action plan which defined the sequence of steps and activities for Georgia to perform
7 May 2009	Georgia became part of the Eastern Partnership (EaP) – the eastern dimension of the ENP
2 April 2009	The first round of negotiations on conclusion of the EU – Georgia Visa Facilitation and Readmission Agreements; consultations on the EU – Georgia cooperation within the Mobility Partnership
15 July 2010	The EU launched negotiations on Association Agreement (AA) with Georgia. The legal document creates a framework for cooperation via the development of political, trade, social, cultural and security links. The process is ongoing

## Chronology of main cooperation milestones: EU – Ukraine

Date	Milestone
14 June 1994	The Partnership and Cooperation Agreement (PCA) signed between the EU and Ukraine. It entered into force in 1998 and expired in 2008
12 May 2004	Ukraine joined the European Neighborhood Policy (ENP)
21 February 2005	A Joint EU – Ukraine Action Plan endorsed by the European Council. It was based on the PCA of 1994 and provided a comprehensive framework for joint work in key reform areas
1 January 2008	Visa facilitation and readmission agreements entered into force
7 May 2009	Ukraine entered the Eastern Partnership (EaP) – the eastern dimension of the ENP
2009 -2011	Negotiations on an Association Agreement (AA) between the EU and Ukraine, with the purpose of replacing the PCA Agreement and harmonizing the legislation with the EU law
16 June 2009	The EU – Ukraine Association Agenda adopted, constituting a new practical instrument of cooperation
22 November 2010	Adoption of EU – Ukraine Visa Dialogue – Action Plan on Visa Liberalization
19 October 2011	Ukraine and the EU finalized negotiations of the Deep and Comprehensive Free Trade Agreement (DCFTA). Technical completion is ongoing at present moment, with prospects for signing the Association Agreement (AA)



# The European Neighborhood Policy and Russia



Map 1. Members of the ENP and Russia are highlighted in darker grey

# Introduction

The non-violent street protests which overthrew the autocratic regimes of Georgia and Ukraine in 2003 and 2004, respectively, put the countries onto a westward path of development. This remarkable phenomenon received the name of the Color Revolutions. The newly appointed governments of both countries committed themselves towards European integration and subscribed to adoption of the Western norms and principles of liberal democracy (Lane & White, 2010:18).

Simultaneously, following the 2004 enlargement, the European Union (EU) initiated the European Neighborhood Policy (ENP), aimed at preventing the dividing lines with its southern and eastern neighbors to emerge (EC, 20101030). The EU's vision became that "a ring of friends" (EU, 20020612) should be surrounding it; drawn into further integration with harmonized norms and legislation to that of the EU, without necessarily obtaining full membership. The EU offered its neighbors a privileged relationship, built upon a mutual commitment to the common European values (democracy, human rights, rule of law, good governance, market economy principles and sustainable development) (EC, 20101030).

In May 2009 the ENP (a bilateral policy between the EU and each partner country) got further enriched by the Eastern Partnership (EaP) initiative<sup>1</sup>. The EaP was officially launched for Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine (Council, 20090507). In addition to cooperation on democratic reforms, the Partnership implies the approximation of the countries' legislations with the EU *acquis* and signing of new Association Agreements (AA) with the Union. The Deep and Comprehensive Free Trade Agreements (DCFTA), for instance, enable the countries to enter into a closer engagement and integration with the EU economy. It would also allow and assurances for easier travel to the EU through gradual visa liberalization (EC, 20103010).

Thus, the ENP framework is literally aimed at spreading the common European values and principles across the Union's borders to its vicinity. Numerous ENP-related projects aimed at promotion of the rule of law and respect of human rights into the neighboring countries, get outsourced to the Council of Europe (CoE). This political organization, headquartered in Strasbourg (France) specializes in democracy and rule of law promotion and possesses over sixty years of experience in diffusing the European norms across the continent – hence reaching out to such a distant, albeit an EU-membership aspired state, as Georgia.

However, the extent to which the norms will become accepted and implemented into a policy by the neighboring countries depends on many factors. Yet, the process of adopting a democratic norm in a less stable environment is difficult and time consuming – especially when it comes to a

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<sup>1</sup> Eastern Partnership (EaP) was launched as a Polish-Swedish initiative in May 2009. It is an eastern dimension of the ENP.

post-Soviet state borrowing a core value from a mature democracy. In the course of several years following the Color Revolutions, the two countries demonstrated diverging progress. Georgia, located thousands of kilometers away from the EU borders, is highlighted as a success story of its transformations and reform achievements. Ukraine, on the other hand, is lagging behind (if not turning its back to) the promised democratic transformations (KyivPost, 20110728).

As the security of property, enforcement of contracts and positive relation between the courts and the judiciary are essential for investment, trade and ultimately economic growth (Albers, 2007:5), a glimpse into the World Bank's "Ease of Doing Business" ranking, points out to what extent the achievements of the two countries in the sphere of rule of law differ. According to the index, while in 2011 Ukraine was on 145<sup>th</sup> place (out of 183 countries), in 2012 it moved to the 152<sup>nd</sup>. Georgia is currently occupying the 16<sup>th</sup> place – overtaking several EU member states on easiness of doing business (World Bank Group, 2012). In 2011 Transparency International (TI) graded Georgia 64<sup>th</sup> out of 183 countries for corruption – a significant leap from 2003 when it was ranked number 127. In 2011 Ukraine occupied the 152<sup>nd</sup> place out of 183 countries and by this result demonstrated several negative steps back since its 122<sup>nd</sup> place in 2004 (out of the 146 ranked countries) (Transparency International, 2012).

Ironically, the democratic achievements the EU had expected from Ukraine, considering its proximity to the Union, were reached by Georgia in a mere seven years (Georgian Reforms, 2011220:3). Ukraine, however, still lags far behind. One cannot help but wonder how the European norms managed to travel so far into a small mountainous country in the Southern Caucasus and find fertile soil there, whilst at the same time avoiding the large Ukrainian territory, located in Europe's backyard.

The main argument of this study is that *the external influences such as norm diffusion should not be looked upon separately from the domestic conditions of the norm recipient countries*. Regardless of how intensively and by what means, an actor strives to diffuse a norm into a recipient state, as long as there is no demand for the available supply of democratic norms by the recipients, the chances that a norm will get integrated, are very slim. Thus, the research aims to boost the understanding of a favorable environment for dissemination of a European norm in the two young democracies.

This study will present two distinct models of reception of the European norm of rule of law by two post-Soviet nations that aspire to become future EU members. By so doing, the conditions posed by the respective domestic environments of Georgia and Ukraine will be problematized theoretically and empirically with the purpose of defining the factors that facilitate or hinder adoption of a European norm in these countries.

# 1. Norm Diffusion in International Relations

## 1.1 Aims and Questions of the Study

The general aim of this study is to track the process of how the EU's "ought to" (a norm) becomes the "is" (a practice) in the selected cases and under what circumstances the process of norm diffusion turns out particularly successful (as in the case of Georgia) or lags behind (current situation in Ukraine). Hence, *norm diffusion*<sup>2</sup> is a key concept of this study. I am interested in looking at the dynamics behind the norm diffusion process by integrating several other concepts into the research, namely the *elite theory* and the *hybrid regime* theory (see Part 2.2.1).

The newly democratized states possess certain peculiar practices when it comes to implementing a policy or reforming the existing system, as the elites are at times torn between the internal forces and interests which either create pressure for change or push for establishing and maintaining stability (Niklasson, 2006:15ff). In practice, these internal forces act simultaneously and may sporadically create tensions between the promoters of a change and stabilizers of the existing regime. Moreover, the established domestic norms and practices and the *post-Soviet legacy*, among others, constitute factors that may hinder the pace of the reform process in Georgia and Ukraine.

Problems and advances connected with the outcome of norm diffusion in the two EaP countries will be contrasted and cross-examined in order to identify crucial dynamics in the norm adoption process; in other words – *factors either facilitating or restraining the process of norm diffusion*. Hence, the scope of the study is not generalizable, but rather aimed at problematizing the factors that are crucial for acceptance of, or resistance to, a foreign norm in a particular domestic environment.

The aim of this thesis is thus to analyze the process of adoption of a core European norm of rule of law by the post-Soviet states of Ukraine and Georgia. This will be done with the purpose of defining the domestic factors and structures which trigger the diverging degrees of acceptance of the diffused foreign norm. The overarching theoretical question of the study is: *What constitutes a fertile ground for adoption of the European norm of rule of law in the post-Soviet states of Georgia and Ukraine?*

In addition to the primary research question, subordinate questions will be put forward in order to define the factors which influence the dynamics of the norm diffusion process on the ground:

1. *Why is there a lack of demand for democratic reforms in Ukraine and abundance in Georgia?*

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<sup>2</sup> In literature the phenomenon also gets referred to as "rule transfer", "norm transfer", "procedural diffusion", "rule transmission" or "transference". This text will use the term "norm diffusion".

2. *What can explain Georgia's geographical remoteness, but ideological proximity to and rapid adoption of the European norms, whilst the opposite seems true for Ukraine?*
3. *How can the qualities of the Georgian and the Ukrainian elites (such as leadership, composition and education), act as forces in favor or against norm adoption?*

Thus, the intention is to problematize the conditions posed by the domestic environments of Georgia and Ukraine, both theoretically and empirically, by tracing the process of adoption of the European norm of rule of law by the two countries.

## **1.2 Research Problem**

It is important to bear in mind that norm diffusion process within the ENP framework is peculiar and cannot be compared to the one which took place in the pre-accession post-Soviet Central and Eastern European (CEE) states, which later became fully integrated into the EU. This is mainly due the fact that the ENP countries were not offered a prospect for membership and therefore possess a different level of stimulation and aspiration towards acceptance of the European norms.

Several scholars examined what methods the EU employs to ensure the diffusion of the European norms into its surrounding neighborhood. However, most of the studies focus on the dynamics of the norm diffusion process in the EU accession candidate countries by investigating the role which the membership conditionality played in the process. Several other academic works performed in this area focus predominantly on the methods which the EU has utilized in order to stimulate norm diffusion process in CEE states, namely argumentative persuasion and socialization (Casier, 2011; Checkel, 2001; Mattli, 2004; Schimmelfenning & Sedelmeier, 2004; Slobodchikoff, 2010; Youngs, 2004).

Casier is one of the scholars who stressed the limited outcome of the norm diffusion process under the ENP and explained it by the weak incentive structure and the absence of a membership perspective from the side of the EU (Casier, 2011:41). In return for accepting the European norms (which Georgia and Ukraine are to fulfill by having become a part of the ENP and subsequently the EaP), the countries may count only on an Association Agreement with the EU. The Agreement speculates the establishment of a free trade area with the Union, but not necessarily the greatly-desired membership in it (Council, 20090507). Thus, the previous studies focus primarily on the EU-centered vision of the norm diffusion process and do not reveal the peculiarity of the diffusion process “on the ground”.

Apart from a weak incentive structure, another limit to acceptance of a democratic European norm in the context of EaP is posed by conditions immanent to these countries. One of them is the *post-Soviet legacy*. This phenomenon gets overlooked in scholarship dealing with norm diffusion within the EaP framework. When it comes to the most eastward neighbors of the Union, the Soviet heritage remains deeply engraved into the mindsets and practices of the people, as well as the functioning of institutions, which in turn may affect the dynamics of the norm diffusion

process. Vogel points out that Eastern Europe presents “a picture full of nuances”, as many countries had and still have enormous difficulties to find a “way from the totalitarian past to a future with a democratic system, which is in conformity with the European standards” (Vogel, 2000:211). The analytical model of this research will be enhanced by taking into consideration the post-Soviet heritage which left a mark on the perception of the rule of law in these countries.

Additionally, the structures of the new democracies that appeared as a result of the collapse of the Soviet Union possess peculiar characteristics. Levitsky & Way determined that these states demonstrate important characteristics of both democracy and authoritarianism, thus labeling them as *competitive authoritarian regimes* (Levitsky & Way, 2010:5). In such regimes democratic institutions “exist and are widely viewed as the primary means of gaining power, but in which incumbents’ abuse of the state places them at a significant advantage vis-à-vis their opponents” (Ibid, p.5). This trait may be viewed as a mere contradiction to the rule of law in the first place and as a consequence, may serve as yet another resistor to the diffusion process.

A well-known fact that “ideas do not float freely” (Risse-Kappen, 1994:187) implies that there are always foreign promoters of an idea or a norm, as well as domestic decision-makers, or rather, the implementers who are responsible for applying it into the domestic practices. Thus, in view of the characteristics of the competitive authoritarian regime, the pace of norm diffusion in the post-Soviet countries may also be determined by the peculiarities of the decision-making process. A limited number of individuals on the top of the political hierarchy is believed to be responsible for taking major decisions (Levitsky & Way, 2010:5f).

Several sources point out differences between the composition of the ruling elite in Georgia and Ukraine. In the Ukrainian case, for example, the political elite strongly abide the interests of the economic tycoons (Puglisi, 2003:835; Kropatcheva, 2011:521). As a result, policy preferences there have a possibility of being formed by the economic elite and these preferences might not always go in line with the decisions of the political actors regarding adoption of a foreign norm. The situation in Georgia appears to be different, however. Soon after being elected the head of state, Saakashvili – a young Georgian leader – ensured increase of his own power constitutionally, and at the same time took concrete steps in eradicating corruption and eliminating the economic elite which spurred during the presidency of his predecessor (Beachain & Polese, 2010:24; Nodia & Scholtbach, 2006:63).

Accordingly, there is a need for a more thorough research on the dynamics of diffusion of the European norm of rule of law in the two countries. This study, in addition to revealing the methods that the EU employs in carrying out its Neighborhood policy<sup>3</sup> with Ukraine and Georgia will also focus on the specific factors (“filters”) which may serve as accelerators or resisters

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<sup>3</sup> The process will be traced starting with the years of the Color Revolutions (2003 for Georgia and 2004 for Ukraine). The legal framework for EU’s cooperation with the two countries was based on the provisions of ENP (2004), until the EaP dimension came into force in 2009

towards adoption of a European norm “on the ground”. Thus, the norm diffusion process will be viewed as a two-way street.

Undoubtedly, democratization process is long and complex. Once the crucial elements of the diffusion outcomes within the ENP framework are determined, it will be possible to increase the effectiveness of the carried out reform projects in the future. Besides, it will be possible to increase the efficiency of distribution of the EU funds in the turbulent times which the global economy has entered. Only for the period of 2010 – 2013 the Commission has embarked € 600 million under the ENP alone, including € 350 million of fresh funds for the EaP initiative (EC, 20100924).

Time will certainly show how effective these investments into the young democracies are. In the meantime a research on norm diffusion process applied for individual countries from the political science perspective, may help to determine what means need to be employed by the EU in order to reap more results from cooperation with the democratizing states. Additionally, this study may fill in the gaps in the existing research on norm diffusion within the ENP and open up prospects for further explorations.

### **1.3 Outline of the Study**

The study is divided into six chapters. The following Chapter will present a theoretical discussion on norm diffusion process by integrating additional aspects from the international relations theory. Subsequently, a conceptual model will be constructed. Chapter Three will develop an analytical model in addition to providing methodological reflections concerning case studies, process-tracing and the material utilized into the research. Additionally, Chapter Three will discuss possible limitations and problems that arise from the use of the chosen methodological tools.

An empirical study will be carried out in Chapter Four, where interactions between the norm entrepreneur and the domestic recipients will be shown through the previously constructed conceptual model. Chapter Five possesses an analytical character. Chapter Six is the concluding chapter and will elaborate on the main findings of the case studies and speculations about prospective research.

## 2. Theoretical Framework

In this chapter an analytical model will be developed. Firstly, the focus of the study will be put in perspective through an overview of the theoretical concepts of the norm diffusion process. Secondly, by scrutinizing the interplay between the norm “life cycle” and peculiarities of the domestic structures of the recipient states, a conceptual model will be created with the purpose of integrating the main theoretical concepts which could later be applied to the empirical study.

### 2.1 Norm Diffusion Theory

The earlier studies performed on the process of norm diffusion make it possible to picture how ideas, norms and policies literally spread across borders through particular channels and actions of various agents involved in the process. As a general concept, *diffusion* of norms, ideas and policies has been widely researched (Finnemore & Sikkink, 1998; Gilardi, 2010; Gurowitz, 1999; Klotz, 1995; Marsh & Sharman, 2009; Meseguer & Gilardi, 2009; Shannon, 2000). Several studies were also performed specifically on international diffusion of democracy, treating the phenomenon both as a dependent and an independent variable (an observable fact which is affected by other variables, as well as the one which may have an effect on the investigated dependent variable) (Bell & Staeheli, 2001; Brinks & Coppedge, 2006; Elknik, 2011; Gleditsch & Ward, 2006).

Norm diffusion is the core mechanism of carrying out the ENP. There is an accepted agreement on the definition of a *norm* as a “standard of appropriate behavior for actors with a given identity” (Elgström & Jönsson, 2005:30; Finnemore & Sikkink, 1998:891). Unlike ideas which “may be held privately”, norms are “shared and social”, meaning that they are not just subjective but also intersubjective and thus are recognized by the society (Jönsson, 2002:24). Moreover, ideas may or may not have behavioral implications, whilst norms by definition relate to a particular behavior (Ibid, p.24).

In this study *norms* refer to something concrete and stated in the official documents of the EU (for example, European values in Article 2 of the Treaty on European Union (TEU), and the importance of the European principle of rule of law envisioned by the ENP Action Plans and Country Strategies). The *principle of rule of law*, as a legal maxim, is presented in this study as one of the norms which the EU aims to diffuse into its neighborhood. The concept of *diffusion* is defined by scholars as a consequence of interdependence (Gilardi, 2011:1; Gleditsch & Ward, 2006:923; Jönsson, 2002:26). Gilardi also comes up with an alternative description, emphasizing diffusion as a process, as opposed to an outcome (Gilardi, 2011:2).

“Norms do not appear out of thin air” (Finnemore & Sikkink, 1998:896) and the national decision-makers worldwide are constantly exposed to numerous foreign influences, which at times are contradictory to the already existing domestic norms. The scholarly work of Finnemore



& Sikkink (1998) constitutes an extensive study on international norm dynamics, treating the diffusion process very thoroughly, by assigning it a patterned “*life cycle*”. Additionally, they draw attention to three aspects of norms – their origins, the mechanisms by which they exercise influence, and certain conditions under which norms can be influential (Finnemore & Sikkink, 1988:888). In turn, Flockhart complemented the research by stressing the importance of agent-level theories which are particularly important for norm diffusion, as the process is mainly located at the agent level and communication between them (Flockhart, 2006:93). Risse-Kappen, another prominent scholar of norm diffusion, argued that the channels by which norms “enter the policymaking process and become incorporated into the national policies are determined by the nature of the political institutions” (Risse-Kappen, 1994:212).

The aim of this study, as mentioned earlier, is to highlight the dynamics of the norm diffusion process that gets created by certain agents of diffusion and shaped by particular conditions immanent to a specific domestic environment. Hence, by integrating a set of peculiar domestic factors into the patterned norm life cycle, presented by Finnemore & Sikkink, it will be possible to connect the process of norm diffusion and the factors which may lead to acceptance or resistance to a norm in a specific environment. This study views a norm as “accepted” once it has been included into a legal text of the recipient state.

## 2.2 Norm Diffusion Dynamics

The way in which a diffused norm surmounts its obstacles and becomes a successful policy in a recipient state was theoretically explained by Finnemore & Sikkink (1998) in the norm “life cycle” model. It comprises three stages—*norm emergence*, *norm cascade* and *internalization* (See Figure 1). These stages will be scrutinized further and complemented by additional theoretical concepts. The first two stages of the process are divided by a threshold or the *tipping point*, at which a critical mass of relevant state actors adopt a norm. According to the scholars, norm internalization occurs when norms acquire a “taken for granted” quality and “are no longer a matter of broad public debate” (Finnemore & Sikkink, 1998:895). During each stage of the norm “life cycle” different social processes and logics of action are involved.

Before stepping further into the description of the diffusion dynamics, a brief introduction to the logic of appropriateness and the logic of consequentiality will be presented in order to describe the behaviors of the actors involved in the process. Firstly, efforts to promote a norm take place by norm promoters<sup>4</sup> assertion that it is an appropriate thing to do. Thus, the actions of norm entrepreneurs are rule-based and guided by the *logic of appropriateness*. March & Olsen state that “[a]ppropriateness need not attend to consequences, but it involves cognitive and ethical dimensions, targets and aspirations” (March & Olsen, 1998:951), meaning that the norm entrepreneurs adhere to the values, ideas and norms which they consider “appropriate”.

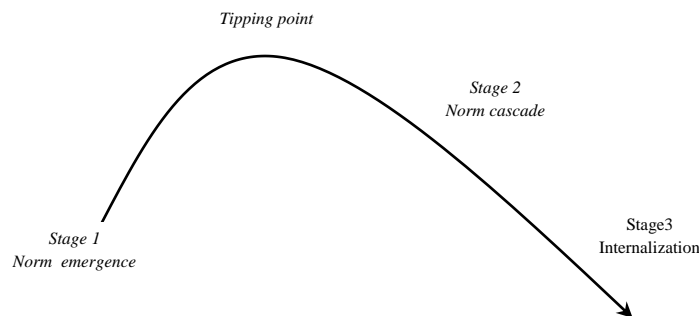
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<sup>4</sup> Norm promoters will be further termed in the text as “norm entrepreneurs”, in accordance with Finnemore & Sikkink (1998)

Certainly, actors involved into norm diffusion process may also possess other motives as well, and thus be guided by the *logic of consequentiality*. The behavior of the actors that are driven by this logic of action possesses a “utility maximizing character based on individual interests”. Thus, society is believed to be “constituted by individuals for the fulfillment of own goals” (March & Olsen, 1998:950). This will be discussed further in Part 2.4.

March & Olsen suggest that the interests of political actors come first; the interests of nation-states are derived from them, “because the nation-states serve the interests of key actors” (Ibid, p.950f). The premise here is that the agents are “*boundedly rational*”: this is an understanding of rationality that assumes that “it is not possible for actors to attend to everything simultaneously or to calculate carefully the costs and benefits of alternative courses of action” (Smith et al, 2008:76). For this reason, the actions and preferences of those actors are limited by “their own knowledge and access to information” (Ibid, p. 390).

Both logics relate to *social constructivism* which sees the world as “socially constructed through a process of interaction between various agents and the structures of their broader environment” (Smith et al, 2008:72). Constructivism occupies the middle ground between rationalist theories (realism, neorealism and neoliberal institutionalism) and interpretive epistemologies (post-modernism, Frankfurt School-oriented critical theories and feminism) (Behraves, 2011:1; Steans & Pettiford, 2005:183). Moreover, the above-mentioned logics of behavior are very difficult to separate in practice. Jönsson (2002) suggested using these two types of logics as “analytical categories rather than “metatheoretical” ones, with the purpose of discovering new necessary aspects of norm diffusion” (Jönsson, 2002:52).



**Figure 1. Stages of the norm “life cycle”, according to Finnermore & Sikkink (1998)**  
(The initial linear representation was modified into the cyclic one by the author)

### 2.2.1 Norm Emergence

The point of departure here is the first phase of the norm “life cycle” – *norm emergence* – which in the context of the ENP takes place in form of various means of communication between the actors. At this stage norm entrepreneurs attempt to convince the leaders of the recipient countries to embrace the new norms with the belief that it is an appropriate thing to do (Finnemore & Sikkink, 1998:895). The two elements which Finnemore & Sikkink highlight as crucial in creating and promoting a new norm are the *norm entrepreneurs* and the *organizational platforms* from which the entrepreneurs act (Ibid, p. 896). Sometimes these platforms are constructed “specifically for the purpose of promoting the norms” (Ibid, p. 899). They include both non-governmental and intergovernmental organizations and forums, with the examples being Greenpeace, the Red Cross, the Council of Europe (CoE) and the Organization for Security and Co-operation in Europe (OSCE).

Hence, norm entrepreneurs are critical for norm emergence because “they call attention to issues or even create issues by using language that names, interprets, and dramatizes them” (Finnemore & Sikkink, 1998:897). This process is called *framing*. Framing in the case of the EU occurs in formulation of its norms in the Treaties and gets further emphasized in the country-specific action plans and working papers. “A high legitimacy of platforms and knowledge claims enhances the chances for a norm to survive and prosper” (Elgström & Jönsson, 2005:29). Thus, Elgström & Jönsson termed the present-day debate on democracy, rule of law, human rights promotion and increasing transparency as “unobjectionable” norms (Ibid, p.29f).

When referring to the actors involved into norm diffusion process, Gilardi states that diffusion occurs between a wide range of private and public entities and not only between states (Gilardi, 2010:3). Jönsson categorizes the participants of norm diffusion process into “individuals (policymakers, consultants, development workers) and groups, organizations, or the media” (Jönsson, 2002:29). A more precise identification belongs to Dolowitz & Marsh who determined six types of actors that may engage into norm diffusion process: “elected officials, political parties, bureaucrats and civil servants, pressure groups, policy entrepreneurs, experts, and supranational institutions” (Dolowitz & Marsh, 1996:345).

It is important to note that a diffused norm at a certain point may be confronted with an already existing societal norm in the recipient environment. It could be argued that the existing norms (of rule of law and good governance, particularly), are exercised by domestic institutions – also known as bureaucracies. In relation to that, Finnemore & Sikkink pointed out the diverging views on norms and institutions by claiming that what constructivists in political science call “norms”, sociologists define as “institutions”, thus referring to certain “behavioral rules” (Finnemore & Sikkink, 1988:891).

In order to avoid confusion between the definitions of *norms* and *institutions* in the context of this thesis, it is necessary to stress that *institution* in this study will refer to the domestic bureaucratic structures. March & Olsen's characterized institutions as "a relatively stable collection of practices and rules defining appropriate behavior for specific groups of actors in specific situations" (March & Olsen, 1998:948). The institutional settings and practices shall not be overlooked in norm diffusion process, especially when it comes to the structures of new democracies. The fundamental institutions there are still fragile and are not completely in line with the European standards (Vogel, 2000:211).

The term *norm entrepreneur* will refer both to a norm promoter, such as the EU (being a collective entity), as well as individuals involved into norm diffusion process (high-ranking EU officials and civil servants). The term *norm recipient* will refer to domestic actors involved into the diffusion process (such as the ruling elite and domestic bureaucracies). Additionally, it is significant to point out that the new democracies, which came around as a result of the collapse of the Soviet Union (Georgia and Ukraine are no exception), have ended up "getting stuck in transition" (Rakner et al, 2008:1). These regimes were labeled as *hybrid regimes* and characterized by "a precarious middle ground between outright authoritarianism and fully-fledged democracy" (Ibid, p.1). As a result of this kind of a regime, the structures of democratic institutions remain fragile.

Viewed from the lens of democratization, hybrid regimes were labeled as "the gray zone between democracy and autocracy" (Teorell, 2010:117) or "flawed, incomplete, and transitional democracies" (Levitsky & Way, 2010:3). In the study on the hybrid regimes which emerged in the post-Soviet space, including Georgia and Ukraine, Levitsky & Way define *competitive authoritarianism* as a regime:

*[...] in which formal democratic institutions exist and are widely viewed as the primary means of gaining power, but in which incumbents' abuse of the state places them at a significant advantage vis-à-vis their opponents. Such regimes are competitive in that opposition parties use democratic institutions to contest seriously for power, but they are not democratic because the playing field is heavily skewed in favor of incumbents. Competition is thus real but unfair*

*(Levitsky & Way,2010:5).*

In the context of the competitive authoritarian regimes, the power of decision-making is concentrated within the limited circle of the *ruling elite*, which possesses and exercises power at the national level. According to Mills, those are the "political, economic, and military circles, which as an intricate set of overlapping small but dominant groups share decisions having at least national consequences" (Mills, 1957:18). Thus, in the context of this study, *elite* will refer to those political and economic actors who decide on national strategies and policies in regard to adoption of a certain foreign norm.

The structure of the Ukrainian ruling elite is characterized in the literature as *ambivalent*. Apart from the influential political actors, it is complemented by “the emergence and consolidation of [a] national economic elite” (Puglisi, 2003:835). However, the situation in Georgia is different. Georgia’s leader Mikheil Saakashvili “was the first [Georgian leader] who refused to play the elite power games” and managed to diminish the role of the economic elite (Beachain, 2010:106). Particularities of the elite structure stipulate that certain groups of actors may have diverse reasoning in regard to the same issue (for example, adoption of a norm) and may thus be guided by varied logics of behavior. Jönsson suggests that some actors may serve as “policy brokers (mediating between norm entrepreneurs and domestic decision-makers) or gate-keepers (controlling the flow of information between the two)” (Jönsson, 2002:30).

According to Finnemore & Sikkink, the mission of the norm entrepreneurs at the norm emergence stage is “to seek the utility functions of other players to reflect some new normative commitment” (Finnemore & Sikkink, 1988:914). Persuasion, according to the scholars, is an essential mechanism by which “agent action becomes social structure, ideas become norms and the subjective becomes the intersubjective” (Ibid, p. 914). When persuasion is looked upon from the negotiation perspective, concessions as a rule take place both between norm entrepreneurs and norm recipients, and decision-makers within the recipient structures. As noted by Elgström & Jönsson, negotiations on norms are extremely difficult to compromise and they often acquire an “all-or-nothing character”:

*[I]f parties hold opposing norms, “reasoned consensus” is difficult to attain: actors cannot be expected to concede on their principles, even when faced with the most convincing and eloquent persuasive argument. They may, however, be prepared to concede on matters of implementation (“how and when”) and on the scope of applicability of the norm*

*(Elgström & Jönsson, 2005:30).*

### ***2.2.2 The Tipping Point***

Following norm framing and its presentation to the recipients, but prior to the norm’s cascade into the domestic environment, a threshold, or a “*tipping point*” takes place (Finnemore & Sikkink, 1998:895). By this time the norm diffusion processes “reaches the point at which a critical mass of relevant norm recipients adopts the norm” (Ibid, p.895). Gilardi’s description of this phase is based on the fact that norm dynamics “lead to a change in dominant, or existing norms” and once the new norm has taken over or is about to do so, “new rules become orthodox and the old heterodox” (Gilardi, 2010:24). This in turn shifts the balance of power between proponents and opponents of a norm. In other words, the tipping point occurs when the domestic opponents, and no longer only the domestic proponents, equally engage into norm diffusion process:

*Such a point cannot be said to have been achieved until [...] those individuals who occupy key roles within the state structures have become convinced of the salience of the norm and have acted on their conviction through legislation or in other ways institutionalizing the norm set into national law and practice*

*(Flockhart, 2006:93).*

In reality not every norm reaches the tipping point (Finnemore & Sikkink, 1998:895). The negotiations which take place among the groups of domestic recipients who may be in favor or against adoption of a foreign norm can sometimes end in a deadlock, thus preventing an emerging norm from penetrating a complex recipient environment.

*As the objectors cannot openly reject the norm as such, they either use exclusionary arguments (“the principle is not relevant in this issue area”) or try to negotiate exceptions, transition periods or fuzzy definitions (to hinder efficient implementation). In these efforts, they can rely on the use of competing, process-oriented norms like time or cost effectiveness*

*(Elgström & Jönsson, 2005:29).*

Thus, communication between all the actors of diffusion is crucial at this stage of the norm “life cycle” (the tipping point phase). The communication process between the agents of diffusion, or the channels through which diffusion occurs, “may take the form of interpersonal contacts and may also involve the media” (Jönsson, 2002:29). However, not only interaction between the norm entrepreneur and the recipient is important, but also the contacts between the actors of the recipient structure who are directly involved into decision-making on the ground. Elgström & Jönsson conclude that norm entrepreneurs start by calling attention to and framing an issue and by this “fight competing norms in a highly contested normative space” (Elgström & Jönsson, 2005:31). Only if and when a diffused norm wins such a debate (thus reaches the tipping point), it may have a chance to spread further into the societal practices and become “unobjectionable” (Ibid, p. 31).

### **2.2.3 Norm cascade**

Once the “tipping point” has taken place and the domestic structures have demonstrated support for a change, the next phase of the norm “life cycle” takes place. In the scholarly literature this phase is called “*norm cascade*” and characterized by the increase of dynamics (Finnemore & Sikkink, 1998:895). At this stage a norm, after having been introduced to the ruling elite, moves downward or “cascades” through various groups of actors. Interests of some may depend on adoption of a particular norm (for example, interests of the economic elite in Ukraine).

According to Finnemore & Sikkink, socialization is the dominant mechanism of this phase since it is “the mechanism through which norm leaders persuade others to adhere” to the norm

(Finnemore & Sikkink, 1998:902). By employing this mechanism, norm entrepreneurs “motivate” norm recipients through “a combination of pressure for conformity, desire to enhance international legitimating, and the desire of state leaders to enhance their self-esteem” (Ibid, p. 895). In the study on norm diffusion through state socialization, Flockhart proposed two strategies for socialization: *social influence* and *coercion* (Flockhart, 2010:97). Gilardi went even further and grouped these mechanisms into four broad categories, namely *coercion* (pressure to adopt a norm), *competition* (process whereby the ruling elites anticipate or react to the behavior of other countries with the purpose of raising their standards), *learning* (when decision-makers use the experience of other countries to estimate the likely consequences of policy change), and *emulation* (when norms get diffused due to their normative and socially constructed properties instead of objective characteristics, thus political actors shift from the logic of consequentiality to the logic of appropriateness) (Gilardi, 2010:13).

At this stage it is also important for the recipient to positively identify itself with the norm entrepreneur, as “Significant We”, as opposed to the “Other”. The main reason to this being that it is impossible “to socialize agents who manifestly do not wish to belong to the social group of the socializer” (Flockhart, 2010:97). Finnemore & Sikkink refer to this desire as “fulfilling a psychological need to being part of the group” and avoid “peer pressure” among other countries (Finnemore & Sikkink, 1998:903). In other words, own *willingness* of the recipients to adopt a norm is crucial for the norm to cascade further into the domestic legislature and practices.

Accordingly, on the phase of norm cascade, not only the recipients’ own desire to adhere to a foreign norm is important, nor the mechanisms which the norm entrepreneur employs in order to facilitate the norm diffusion process, but also the situation of the environment into which a foreign norm gets diffused. Yet, one of the common criticisms of research on norms has been that it provides “no substantive hypotheses about which norms will be influential in world politics and under what conditions” (Finnemore & Sikkink, 1998:908). This thesis, as pointed out before, aims to define the components of a fertile ground for adoption of the European norm of rule of law in the post-Soviet states of Georgia and Ukraine.

Flockhart made an attempt to problamatize possible conditions theoretically and introduced the concept of “*filters*” which may “cover a multitude of country-specific factors” (Flockhart, 2006:113). With the domestic structure of the ruling elite being an example, filters are certain elements of a particular environment which a diffused foreign norm has to go through before becoming adopted. Thus, they act as determinants of the speed with which the diffusion might take place. Several examples of filters include political culture, political structures and processes, and national participation traditions (Ibid, p. 99f). The scholar points out that a low level of political participation traditions in Eastern Europe is likely to slow down the socialization process, “despite other factors such as positive Self- and Other categorization being in place” (Ibid, p.99).

Similarly, Risse-Kappen stresses the importance of the domestic structure of a target state (Risse-Kappen, 1994:187). According to him, the domestic structure is made by “the nature of its political institutions, state-society relations, and the values and norms embedded in its political culture” (Ibid, p.187). For example, some foreign actors were successful in promoting their norms and thus influencing the state policy in the former Soviet Union, only by gaining access to the very top decision-makers of the state-controlled machinery. Additionally, their specific concepts and arguments also had to be aligned with the beliefs and goals of the Soviet decision-makers (Ibid, p.212).

Jönsson goes further by pointing out that certain preferences of the ruling elites are shaped by “historically constructed and institutionalized domestic norms” (Jönsson, 2002:66f). According to her, “certain routines, decision-making rules and processes are incorporated into law and custom”, and thus serve as filters to a diffused foreign norm, because:

*The domestic political institutions provide the rules of the game for citizens and state officials, establish rights and obligations, identify what is legitimate and what is not, and in the process, help national actors define their interests domestically and internationally*

*(Ibid, p.67).*

Additionally, the recipient environment may possess counter-norms. These norms may already be perceived as “unobjectionable” and “appropriate” in the society and at times contradict a diffused foreign norm. Moreover, officials in any bureaucracy are strongly influenced by a particular organizational culture (partially due to the process of socialization which was described above in the section on norm cascade). As a result, “new politically decided norms do not always fit into the dominant norm structure within a bureaucracy” (Elgström & Jönsson, 2005:33). Therefore, the existing value and norm system may act as a filter which prevents a diffused norm from entering the concluding phase of its “life cycle” – internalization.

#### **2.2.4 Internalization**

At the far end of the norm cascade, norm internalization occurs when norms acquire a “taken for granted quality that makes conformance with the norm almost automatic” and excludes any broad public debate (Finnemore & Sikkink, 1998:895). Therefore, if ever a foreign norm becomes highly institutionalized in the new environment and taken as a habit (iterated behavior), it is called an “unobjectionable norm” (Elgström & Jönsson, 2005:32). At this stage, it is considered appropriate to follow the norm and immoral not to do so:

*[F]ew people today discuss whether women should be allowed to vote, whether slavery is useful, or whether medical personnel should be granted immunity during war*

*(Finnemore & Sikkink, 1998:895).*



However, completion of the norm “life cycle” is not an inevitable process, as many emerging norms fail to reach their tipping point. The result of norm diffusion depends on the extent to which the norm achieves a status of a “structure of relevance within the recipient society”, which ensures “a stable institutional order” (Flockhart, 2006:97). Hence, adoption of a diffused norm into the legislation of the domestic environment is crucial for its institutionalization:

*The law is a particularly powerful method of internalizing new norms because it is generally regarded as inappropriate to breach the law, and because breaches are sanctioned*

*(Ibid, p.97).*

Before a foreign norm becomes integrated into a legal text or a concrete policy, thus becoming a daily practice, it has to go through additional phases of the internalization stage: “legalization” and, finally “implementation” (Elgström & Jönsson, 2005:33f). Negotiations between norm opponents and proponents in the recipient structures are also crucial at this stage of the diffusion process. However, resistance to accepting a norm is quite common during this concluding phase and it is typically played out in text negotiations (Ibid, p. 34):

*The text is penetrated paragraph by paragraph and the exact wording is carefully examined. This creates possibilities for norm opponents to influence the impact of the norm by acting for: vague definitions and fuzzy language, limited application areas, numerous exceptions, long transition periods*

*(Ibid, p. 34).*

## **2.2.5 Summary**

This chapter presented a theoretical discussion of the norm diffusion process, starting from the moment of its emergence and ending with the phase when it becomes integrated into the legal text of a recipient environment. By introducing the logic of appropriateness and the logic of consequentiality, the behavior of actors involved into norm diffusion process was problematized in relation to the context in which they act.

In addition, the model of the norm “life cycle”, initially presented by Finnemore & Sikkink (1998), was supplemented by varying mechanisms of communication between particular norm entrepreneurs and norm recipients. Finally, the Chapter presented the concept of “filters” – country-specific conditions which are immanent to the recipient environment. This concept highlighted the importance of the domestic structures and the existing norms.

Whilst norm diffusion process may be characterized as a cyclic process, the components of the recipient environment (namely the composition of the elites and the country-specific filters), represent solid structures. If phrased in mathematical terms, the recipient structure may be characterized as a constant – a non-varying and fixed value in a specific context of use. The

process of norm diffusion, on the other hand, could be illustrated as a vector which points into a specific direction.

In other words, norm entrepreneurs, by employing various strategies (namely social influence and coercion), may steer the diffusion process in a specific direction and assign a certain degree of importance to the diffused norm. The recipient structures, however, remain steady in their core (political culture, customs and norms) and play an important role in the outcome of the diffusion process.

## 2.3 Hypothesis Regarding the Outcomes of Norm Diffusion

Acting as a norm entrepreneur, the EU aims to diffuse identical norms by employing similar methods for both Georgia and Ukraine. For example, the principle of rule of law tops the list of EU's priorities for action in both countries. Moreover, the CoE plays a great role in practical dissemination of the norm, thus serving as an organizational platform. However, the end-results gained from the diffusion process, differ in these two cases.

Considering the theoretical discussion posed above, we may assume that these two countries possess diverging *filters*, which act as stimuli to the diffusion process in Georgia and resistors in Ukraine. In relation to this line of reasoning, a hypothesis may be formulated, stating that:

**In view of the similar characteristics of the competitive authoritarian regimes in Georgia and Ukraine, the diverging outcome of norm diffusion may be caused by distinct domestic situations and dissimilar reasoning of the ruling elites' in regard to the consequences of norm adoption.**

The empirical study will be aimed at determining conditions which may create a fertile soil for adoption of the European norm of rule of law, or on the contrary, hinder its further dissemination.

## 2.4 Conceptual Model

The theoretical discussion posed above stressed the importance of the norm "life cycle" in the diffusion process and the country-specific filters which a diffused norm has to go through in order to get accepted in the new environment. Whilst norm diffusion may be viewed as a dynamic process with a particular aim and mechanisms applied to it, the domestic filters may be portrayed as steady and fixed structures. A diffused norm has to surpass them before getting adopted into the recipient environment in form of a legislative act or a policy.

The statement that ideas and norms "do not float freely" (to paraphrase Risse-Kappen, 1996:187) stipulates that there are certain actors involved in norm diffusion process on both ends of the diffuser-recipient spectrum. Hence, a hypothesis was put forward, stating that the reasoning of the ruling elite in regard to a specific domestic situation may be crucial for the outcome of the diffusion process. The ruling elite creates and follows certain "rules of the game" that are present

in the national policy-making. And their decisions, as mentioned before, are influenced by the current domestic situation.

Thus, actors involved in the process are guided by varying logics. The norm entrepreneur, adhering to its values, rules and norms – which are ethical and appropriate in its domestic environment – acts in accordance with the *logic of appropriateness*. For that reason, the norm entrepreneur – the EU – by promoting a principle of rule of law within the ENP, truly believes that it is appropriate to act in accordance with this norm and absolutely unethical to disregard it.

Certainly, such a powerful actor as the EU may not be spreading the “goodwill” out of altruistic motivation alone. The pursuit of individual interests, including economic and political ones, is very probable. However, if the principle of rule of law is neglected in a country, numerous violations of human rights may take place as a result of that. Therefore, by promoting, or rather diffusing this particular norm, the actions of the EU may be viewed as a result of its adherence to the logic of appropriateness.

The reasoning of a norm recipient in regard to the consequences of adoption of a particular norm, however, may be based on its preferences and cost-benefit analysis. It is logical for recipients to calculate the benefit from adopting a norm and to determine the consequences which such norm may entail. As a result, a norm recipient (an ENP state), by adhering to the *logic of consequentiality* and being aspired to integrate further with the norm entrepreneur (the EU), is thus guided by the utility-maximizing reasoning that comes from the benefits of being an EU member or its strategic partner. Additionally, the existing norms and values of what is perceived as the rule of law in the recipient environment may be considered as already appropriate there, and a diffused foreign norm may seem absolutely inappropriate in some occasions.

Moreover, the domestic filters (which determine the speed of the diffusion process) need to be scrutinized in order to define the factors which create a favorable environment for adoption of a foreign norm. As pointed out earlier, norm diffusion takes place by the means of socialization, meaning that communication between actors is crucial at all stages of the diffusion process. Thus, the peculiarity of the *ruling elite* may serve as an important determinant of overall willingness of the state to adopt a foreign norm. The elites’ composition may be ambivalent – composed of political and economic elites, or monolithic – with power in hands of a single political leader or party; the elites may possess varying characteristics – older “Soviet school” officials, or younger people, educated in Western universities; additionally, the elites may be guided by certain motivations – thus being in favor of stability or ready to accept certain changes.

Another important element is whether there is a demand for adoption of a foreign norm in the first place. In other words, is there a utility-maximizing opportunity which may motivate the elite to adopt a foreign norm, available from the supply of norms offered by the entrepreneur? As mentioned earlier, the ruling elite tends to calculate the benefits in regard to the domestic situation in which they find themselves. Thus, a dimension of *domestic conditions* will be

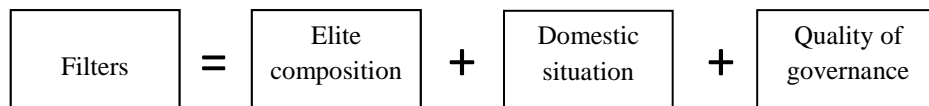
integrated into the conceptual model of this research in order to categorize the elites' reasoning on adoption of a foreign norm in regard to the posed domestic conditions.

The categorization of domestic conditions will be based on the realism dogma, with the premise that politics (and diplomacy) is primarily based on power, practical factors and material considerations (Smith et al, 2008:34ff). Thus, the first category – *geopolitical situation* – is derived from the realist notion of the states' pursuit of their national security. The second category – *economic situation* – implies the states' pursuit of their economic capacity. One may argue that when carrying out a decision on whether to adopt or not to adopt a norm, it is logical for the ruling elite to adhere to utility-maximization motives in the context of the established geopolitical and/or economic situation.

Furthermore, the way the ruling elite govern the state determines the prevalent type of governance there. In other words, the *quality of governance* refers to how governments and bureaucracies are managed. The principle of fair governance has not yet become rooted in young democracies. As a result, in some countries corruption spreads easily and is not properly controlled. Undemocratic systems may certainly be advantageous to some key players and reforming the benefit-providing system may not be a logical thing for them to do.

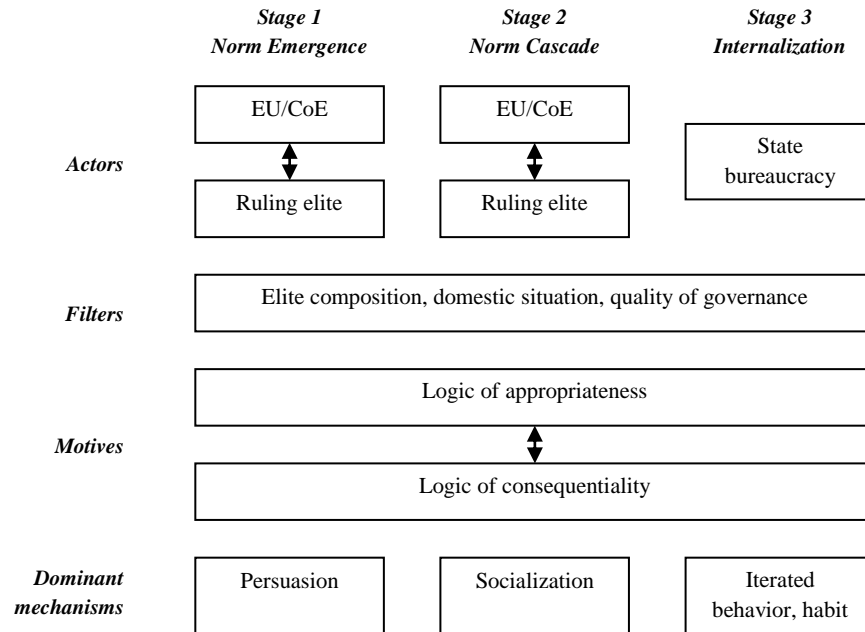
In a Western society welfare is perceived as a benefit-providing system. Conversely, due to the economic constraints and the widespread corruption in the post-Soviet states, officials of the law institutions may generate additional income by the means which are not accepted in the West. For example, the road traffic police may take bribes from violators who disregard traffic rules, whilst the court officials may sell a “verdict of not guilty” to a wealthy perpetrator (Stefes, 2007:6ff). Thus, in such societies bribing an authority may be seen as an appropriate behavior, which in its nature acts as a counter-norm to the European principle of rule of law.

Accordingly, the above-mentioned components of the domestic filters may be presented graphically (Figure 2):



**Figure 2. Components of filters**

Thus, by integrating the elite-centered dimension into the existing norm “life cycle” model and stressing the importance of the filters which may influence the three phases of the norm diffusion process in Georgia and Ukraine, an innovative conceptual model may be graphically constructed below (Figure 3). This model will serve as a basis for analysis of the main forces which may influence the outcome of the norm diffusion process in the two countries. Application of such a model to the actual cases of adoption of the European norm of rule of law by Georgia and Ukraine should allow determining the dynamics of norm diffusion process in these two cases.



**Figure 3.** This table presents an image of the conception model, depicting the norm “life cycle” with its main stages and components (initially presented by Finnemore & Sikkink, 1998) and complemented by the concept of “filters” (Flockhart, 2006)

### 3. Methodological Reflections

This chapter will firstly turn to explaining the methodological approach of the study. Secondly, it will present the tools which will be utilized in order to analyze the relevant empirical material. Finally, an analytical framework will be built upon the previously discussed theoretical concepts. This framework will be later applied to the analysis of the two selected cases on norm diffusion.

#### 3.1 Research Design

This research comprises a study of two cases of implementation of a component of the ENP – strengthening the rule of law. It aims to determine which domestic conditions lead towards adoption of a diffused European norm. The *case study method* is the most suitable for the qualitative analysis of unstructured and text-heavy data. Moreover, case study refers to research that investigates cases in a considerable depth (Gomm et al, 2009:3). The chosen method firstly aims at internal examination of norm diffusion “life cycles” in the two cases. Secondly, a cross-case comparison is carried out in order to draw conclusions on peculiarities of a *fertile ground* for norm adoption. For this purpose, the method of *structured and focused comparison* will be applied.

George & Bennett state that the method is “structured” because the researcher “poses general questions which refer to the research objective”, then addresses the questions to each case in order to guide and standardize data collection, thereby “making systematic comparison and cumulation of the findings of the possible case” (George & Bennett, 2005:67). The method is “focused” because it deals only with particular aspects of the examined cases (Ibid, p.67). This study will be mainly centered on the domestic filters and their impact on the diffusion process in the respective cases. Additionally, George & Bennett suggest that the strongest means of drawing inferences from case studies is through the use of a combination of *within-case analysis* and *cross-case comparisons* (Ibid, p.18).

According to Björkdahl, “the impact of international norms varies across time and place, and it is only through detailed process tracing that we can understand when and where they matter” (Björkdahl, 2002:34). Therefore, the method of *process tracing* will be used for assessing each of the individual countries’ transformations in the sphere of rule of law – thus tracing the links between “possible causes and observed outcomes” (George & Bennett, 2005:6). In view of these countries’ diverging results in adopting a similar European norm, process tracing will be utilized to test whether the “residual differences between the two cases were causal or spurious in producing a difference in these cases’ outcomes” (Ibid, p.7).

Moreover, the literature defines the nature of norm diffusion as a *process* in its nature (opposed to an outcome) (Finnemore & Sikkink, 1998; Gilardi, 2010). By tracing the norm “life cycle” and scrutinizing the outcomes it generated in a given context, the underlying mechanisms (or *causal mechanisms*) may be determined. George & Bennett define causal mechanisms as:

*[U]ltimately unobservable physical, social or psychological processes through which agents with causal capacities operate, but only in specific contexts or conditions, to transfer energy, information, or matter to other entities*

*(George & Bennett, 2005:137).*

Thus, drawing from the definitions and the theoretical concepts discussed earlier in Part 2.2, the dominant mechanisms which a norm entrepreneur utilizes in order to stimulate norm diffusion process, may be labeled as the underlying “social processes”. The elite-centered analytical approach, presented earlier in Part 2.4, is based on the reasoning and the logics which guide decisions of the actors involved into diffusion process. The actors are believed to possess certain “causal capacities”, acting in accordance with various logics and motives and therefore contributing with underlying “psychological processes”. In total, these processes constitute causal mechanisms which determine particular outcomes of diffusion.

The simplest form of causality is linear causality – a “straightforward chain of events that characterizes the phenomena” (George & Bennett, 2005:212). This study will utilize a more complex form of causality. It will be based on the existing model of the diffusion “life cycle” with inclusion of the notion of the country-specific filters. Thus, the outcome of a more complex causality is expected to “flow from the convergence of several conditions, independent variables, or causal chains” (Ibid, p.212).

The two investigated cases are characterized by contradictory outcomes: namely – a rapid adoption of the European norm by a geographically distant country in South Caucasus, versus a failure to do so by a country in the EU’s vicinity. They constitute two *deviant* cases. According to George & Bennett, process-tracing is the appropriate method to apply to this type of cases as “it can perform a heuristic function as well, generating new variables or hypotheses”, based on the sequences of events in given cases.

*Process tracing is particularly useful for obtaining an explanation for deviant cases, those that have outcomes not predicted or explained adequately by existing theories*

*(George & Bennett, 2005:215).*

As a consequence, by confronting the existing theory on the phenomenon of norm diffusion through integration of a concept of country-specific filters, this research may contribute with further development of the existing theory.

This *qualitative* case study is overall aimed to analyze the *how* and *why* of the decision-making processes of the main actors in the recipient environments. George & Bennett stress the advantages of the case study method by their potential for achieving high conceptual validity, examination of the hypothesized role of causal mechanisms in the context of individual cases, and their capacity for addressing the causal complexity (George & Bennett, 2005:19).

## 3.2 Weaknesses and Limitations of Design

The most common disadvantage of case study research is that its findings are not generalizable (Gomm et al, 2009:234). The goal of this study, however, is not to generalize, but rather to present two deviant models of adoption of a diffused foreign norm. The diffusion dynamics in the two country-cases will be presented as two *examples* of the norm diffusion process. This will be performed through an analysis of *how* and *why* a foreign norm gets diffused into a new domestic context.

*Case study researchers are more interested in finding the conditions under which specified outcomes occur, and the mechanisms through which they occur, rather than uncovering the frequency with which those conditions and their outcomes arise*

*(George & Bennett, 2005:31).*

Another critique arises from the qualitative research per se. Gomm emphasizes the case selection bias of a researcher and the fact that “far too often cases seem to be selected solely on the basis of convenience, and turn out to be atypical in important respects” (Gomm et al, 2009:107). In this study the cases of Georgia and Ukraine were selected on the basis of their reform performance (forerunner and laggard) within the ENP framework and not on the basis of convenience.

Furthermore, case study research gets criticized due to the lack of objectivity that a researcher might have; several important underlying causes of a particular outcome “may not be acknowledged, thus causal explanations will not be complete” (Marsh & Stoker, 2002:205). Therefore, it is important to attain enough relevant empirical material in order to track and test possible explanations of a certain process.

On similar notion, George & Bennett point out another limit that arises from the method of process tracing. They claim that there may be “more than one hypothesized causal mechanism consistent with any given set of process tracing evidence” (George & Bennett, 2005:222). For that reason, an additional exploration of potential alternatives has to take place in order to ensure an accurate and complete research.

Not less important is it for a researcher to determine where a study starts and where it ends. A *time-frame* is therefore an important delimitation that needs to be introduced with the purpose of maintaining viability of the study. Thus, the starting points for the cases will be the year 2003 in Georgia and 2004 in Ukraine. The democratic Color Revolutions which took place during those years marked the choices of the respective countries towards their westward preferences of development.

The reform processes in the two countries is still ongoing, however. And during the course of writing the paper important transformations have been taking place in the researched area. Yin stated that “case studies are useful when investigating contemporary phenomenon within its real-life context, when the boundaries between phenomenon and context are not clearly evident, and



when multiple sources of evidence are used” (Yin, 1994:13). Therefore, relying on the merits of the case-study method, 2003 and 2004 may be assigned as the starting dates for Georgia and Ukraine, respectively, and the timeline may be extended up until today.

Even though both countries share similar post-Soviet heritage and characteristics of young democracies, certain differences need to be taken into account. Firstly, Ukraine located in Central and Eastern Europe, occupies the territory of ten times larger than the territory of Georgia. Attitudes of the Ukrainian population towards the westward and eastward development are divided between the pro-European West and the pro-Russian East (Åberg & Sandberg, 2003:45).

Georgia, on the other hand, belongs to South Caucasus, the cultural characteristics of which differ from Central and Eastern Europe. Moreover, Georgian population of 4.7 million people is almost ten times less than the one of Ukraine – 46 million people. There is no theoretical evidence as to whether the size matters in this case. It is an important question to keep in mind, however, when investigating the country-specific filters in the subsequent chapters.

### 3.3 A Note on Tools and Material

Another vital element of a study is the information which it utilizes. May suggested that “data are not collected, but produced”, meaning that certain interests have led to the data having been collected in the first instance (May, 2001:28). For that reason, it is important to indicate *what* type of the empirical material will be collected and *how* it will be analyzed. Firstly, this thesis will employ *text analysis*. George & Bennett point out the importance of “the analyst’s search for documentary evidence” of the researched phenomenon (George & Bennett, 2005:104). Thus, the *primary sources* in the form of material produced by the norm entrepreneurs (the EU and the CoE) will be derived in the form of *documents* retrieved as electronic sources (action plans, country reports and strategies, project reports).

Additionally, the material will integrate *personal interviews* with the CoE officials involved in the diffusion process on daily basis<sup>5</sup>. The interview data will provide complementary insights on norm diffusion dynamics in the two countries, which concise and technically phrased progress reports may be lacking. The interviewees were asked to answer the pre-formulated questions within “their own frame of reference”. May labeled this kind of interview as *unstructured* (May, 2001:124). It is a kind of interview “in which the respondent is encouraged to answer a question in their own terms” (Ibid, p.121). Open-ended design of interviews provides a better understanding of the subjects’ point of view (Ibid, p.124).

A constraint which arises from interviews as a method of obtaining information is the limitation of data to how the interviewees perceive the problem themselves. On one hand, respondents may possess certain prejudice or bias in regard to the questions, on the other hand work ethics of a political organization may limit the degree of openness on a specific issue. Nonetheless, the

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<sup>5</sup> See Appendix 1 for the list of questions.

information collected from three different Directorates of the CoE is expected to complement the respondents' insights on the diffusion problem.

Additionally, this thesis will utilize *secondary sources*. "These are written after an event which the author had not personally witnessed and the researcher has to be aware of potential problem in the production of this data" (Ibid, p.180). By this means, the findings retrieved from scholarly articles, as well as independent news sources will be correlated with the information obtained from the primary sources.

### **3.4 Analytical Framework**

The analytical framework of this thesis will be built upon the conceptual model presented earlier in Part 2.4. In order to define what constitutes a fertile ground for adoption of the European norm of rule of law, drawing from the norm diffusion process in Georgia and Ukraine, an elite-centered and filters-based analytical approach will be implemented in the subsequent steps:

1. At each phase of the norm "life cycle" the three components of the filters will be scrutinized in relation to the mechanisms employed by the norm entrepreneur with the purpose of diffusing a norm (see Figures 2 and 3). This may in turn show the level of the recipients' responsiveness towards those mechanisms.
2. Additionally, at every phase of the norm "life cycle", the *domestic situation* filter (geopolitical and economic) will be contrasted with the ruling elite's reasoning regarding the consequences of adoption of a certain norm (by integrating the logic of appropriateness or consequentiality).
3. In order to draw inferences on factors which stimulate or resist norm adoption, the findings from Step One and Two will be labeled as *conditions for norm adoption*. These conditions will be consequently contrasted between the two cases through the method of structured and focused comparison. Thus, relieving the conditions which may trigger, or on the contrary – facilitate the diffusion process in a particular case.
4. By employing a technique of cross-case comparison of the *conditions for norm adoption* (derived from Step Three), it may be possible to sum up the overall picture of what constitutes a fertile ground for adoption of the European norm of rule of law in Georgia and Ukraine. This, in turn, may lead to potential answers to the posed research questions.

### **3.5 Method-Related Problems**

All empirical material of qualitative nature is subject to different interpretations and there is "no definite pattern to tell which circumstance may have caused the occurrence of the other" (Marsh & Stoker, 2002:206). Being a Ukrainian by nationality, my views on events that take place in the

Ukrainian context may appear somewhat biased. Therefore, it is important to adhere to the ethics of a researcher and maintain an independent view in such situation. Yet, fluency in the Ukrainian language provides me with an outstanding opportunity to analyze information from supplementary material issued in Ukrainian. Moreover, additional information provides assurance in reliability of data derived from secondary sources.

The extensive and unique information obtained from the interviews with the CoE officials provided significant insights into norm diffusion dynamics in Georgia and Ukraine. Additional viewpoints from the EU officials would have presented an even broader outlook on the researched problem. Moreover, the fact that neither of the norm recipients (Georgian or Ukrainian officials) were interviewed for this study, may to some extent undermine the scope of the presented information and thus bring the European view on norm diffusion in the limelight. Therefore, it is important to maintain the focus on the research aim and the question throughout the whole study and favor an impartial approach when drawing inferences from the analysis.

## 4. Norm Diffusion in the Post-Soviet Space

The perception of the principle of rule of law in the context of the post-Soviet space will open the empirical chapter. Practical illustration of the norm diffusion processes will follow further, with a particular emphasis on the country-specific filters. The analytical part of this chapter will determine the conditions which influence the norm diffusion dynamics in Georgia and Ukraine, respectively. Finally, conclusions will be drawn regarding the factors which constitute a fertile ground for adoption of the European principle of rule of law in the two countries.

### 4.1 What is the Rule of Law?

*Wherever law ends, tyranny begins*  
(John Locke)

The *principle of rule of law* – a legal maxim, is presented in this study as one of the democratic norms which the EU aims to diffuse into its Neighborhood. The EU perceives the rule of law as one of its core values. It is stated in the TEU that the “Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law” (Article 6, TEU). In scholarly definition the rule of law implies “a particular kind of supremacy of the law which applies to the citizen who has to conform his behavior to the demands of the law, but more particularly to the public powers” (Feldbrugge, 2000:214f). There is an assumption that in the countries with weak rule of law all levels of government and the judicial system are ineffective and corrupt (Aresty, 2011:1).

The CoE – an organizational platform for diffusion of the European principle of rule of law – presents its vision on the principle as a link of three inseparable dimensions: democracy, human rights and organization and functioning of a state (Council of Europe, 20081127:7). This thesis will view the European norm of *rule of law* in its broad definition, which was initially embedded into the Charter of the United Nations and later adopted into the CoE’s definitions. It reads as follows:

*Rule of law refers to a principle of governance in which all persons, institutions and entities, public and private, including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency*

(UN, 20040823).

### ***4.1.1 Historic Background: Post-Soviet Heritage and “Rule of Laws”***

Despite the fact that Georgia and Ukraine took diverging paths of development at the start of the new millennium, the Soviet past bridges the countries’ histories together. Sixty nine years<sup>6</sup> of the Soviet rule and the preceding centuries of being a part of the Russian empire<sup>7</sup> have shaped the views of Georgians and Ukrainians on the principle of rule of law. This is particularly evident when it comes to people’s perception of law, state power and relations between the two. In the Russian tradition law has always been the instrument of the rulers:

*For the tsar the law was a tool through which to control his empire [...]. For the tsar's Soviet successors the law has been a device for the arbitrary exercise of total power as well as for social engineering, essentially for turning a particular social and economic theory into reality*

*(Thornburgh, 1989:14).*

After Stalin's death the Soviet constitution was amended, yet coverage of totalitarianism with the constitutional provisions remained an accepted practice. The Soviet criminal procedure in one way or another “resembled the Western one (including the right to be represented by counsel), although it was filled by abusive and arbitrary aspects” (Ibid, p.16). Despite the Western-like structure, the whole law system was there to protect the state from an individual, rather than the opposite (Quigley,1992:285f). Moreover, “socially dangerous” acts were still punishable as crimes, “although such acts remained undefined in law, and agencies such as the KGB<sup>8</sup> continued [routine harassment and persecution] with absolute disregard for legal stricture” (Thornburg, 1989:17).

*The law remained a tool of the state and, since any "crime" had political implications, the rule of law gave way to uncontrolled arbitrariness. Similarly, despite its Western structure the entire purpose of the civil law was to harness the energies of the Soviet citizens in service to the policies of the party*

*(Ibid, p.17f).*

Due to the fact that the Soviet state and the secret police agencies were given extensive extra-judiciary powers, “[t]here was no clear-cut rule of reason, and little belief in the supremacy or completeness of law” (Berman, 1948:253). Moreover, the Prosecutor General’s Office had authority to monitor the “incorrect” judicial decisions carried out by the courts and the Ministry of Justice was in charge of the “organizational supervision” of the Soviet judiciary (Huskey,1992:223f). Hence, the Soviet judiciary depended on the Communist Party, the

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<sup>6</sup> The Soviet Union as a state existed between 1922 and 1991.

<sup>7</sup> Georgia was officially a part of the Russian empire between 1801 and 1918. The Ukrainian territory was divided between the Polish-Lithuanian Commonwealth and Russia in 1667.

<sup>8</sup> The Committee of State Security (Translation from Russian), the national security agency of the Soviet Union from 1954 until 1991. It was the main internal security, intelligence, and secret police organization.

Prosecutor General's Office and the Ministry of Justice. Following the Soviet ideology, the Party "encouraged judges to place party loyalty above concerns for legality" (Ibid, 1992:225).

It was not until the years of perestroika<sup>9</sup> when Gorbachev encouraged the Party to establish a "new legal order in accordance with the new parameters of democratic governance and respect of human rights" (Feldbrugge, 2000:215). However, instead of taking on new challenges, "a sense of disorientation prevailed", primarily due to the fact the Soviet system of governance was about to collapse (Ibid, 2000:215). Upon the Soviet Union's dissolution and independence of the new republics, Georgia and Ukraine gained membership in various international organizations and forums in the early 1990s. By doing so, the countries demonstrated their willingness for democratic transformations.

However, the immaturity of the internal democratic structures, together with the Soviet heritage, has been braking the speed of democratic developments in Georgia and Ukraine. According to Holovaty, the rule of law in the post-Soviet society up until now remains a phenomenon that is practically incomprehensible:

*The most common approach to the understanding of the principle of the rule of law consists of confusing it with the traditional principal in Soviet jurisprudence of the rule of laws in its narrow meaning, which treats laws as acts of the Parliament*

*(Holovaty, 2000:273).*

According to Feldbrugge, an additional brake to the pace of the diffusion of the European norm of rule of law into the post-Soviet countries, is the immaturity of the political party structures (Feldbrugge, 2000:229). They "can be blamed for much of the incompetence of post-Soviet parliaments" (Ibid, p.229). Political parties in these countries are generally not fully based on party ideologies, which is a norm in the Western societies. They may be characterized as "clientelist networks of individual leaders" who are there to contest for power and are rarely present in the Parliament not for the citizens' needs (Ibid, p. 229). And at the bottom of such phenomena, "undoubtedly, lies the attitude of the individual who does not expect to be able to exercise any real influence" (Ibid, p.229f).

#### ***4.1.2 Norm Emergence in Georgia and Ukraine***

As a diffused norm, the European principle of rule of law started to emerge in Georgia and Ukraine in the early 1990s. The European Commission (EC) opened its Delegation to Ukraine in 1993 and to Georgia in 1995 (EC20120507; EC20120317). This step implies that the contacts between the EU officials (norm entrepreneurs) and the leadership of the newly independent

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<sup>9</sup> Literally means "restructuring" (Translation from Russian). Political movement led by Mikhail Gorbachev within the Communist Party in 1980s. It was aimed at restructuring of the Soviet political and economic systems.

countries (norm recipients) became stronger than ever before. The European norm on rule of law was verbally “framed” by the EU via the Partnership and Cooperation Agreements (PCA) for Ukraine (1994) and Georgia (1996). Both documents stated “the paramount importance of the rule of law and respect for human rights [and] the establishment of a multiparty system with free and democratic elections” (EC19940323:5; EC19960422:2).

Moreover, both of the countries became members of the CoE – an organizational platform which specializes in promotion of the norm of rule of law. The primary aim of the organization is “to create a common democratic and legal area throughout the whole of the continent, ensuring respect for its fundamental values: human rights, democracy and the rule of law” (CoE, 20050517). Upon gaining the CoE membership, Georgia and Ukraine ratified the Convention on Human Rights (Ukraine in 1997 and Georgia in 1999), Article 7 of which constitutes a provision on the supremacy of law. Additionally, the countries accepted the statute of the organization which is built upon the members’ acceptance of “the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realization of the aim of the Council” (CoE, 19490505).

Thus, the first stage of the norm “life cycle” – norm emergence, occurred in the 1990s, when the countries voluntarily took on commitments “to adopt new democratic constitutions, draft new civil and criminal codes, reform the judiciary and harmonize the legislation in accordance with European norms and standards of human rights and freedoms” (Holovaty, 2000:267). The two countries, however, still have to go a long way in order to fulfill the obligations they had subscribed to twenty years ago. Despite numerous promises made at the international forums, corruption accelerated in Ukraine and Georgia during the years of Leonid Kuchma’s (1994-2005) and Eduard Shevardnadze’s (1995-2003) presidencies (Ibid, 2000: 267ff). The principle of rule of law remained mostly in the texts of the documents signed with the European bodies, but not in practice. As it is stated in a Venice Commission’s (VC)<sup>10</sup> report, “the rule of law [in the post-Soviet countries] is more easily conceived as an instrument of power than as a value to be respected” (VC, 20110404:3).

It took several years for the countries to reap fruitful results from cooperation with the European promoters of the rule of law. According to one of the CoE’s officials, at the beginning the cooperation was taking place in form of roundtables and meetings (Interview 1, 20120326). Only a decade later, when the trust grew stronger, actual projects aimed at facilitation of the countries’ adoption of the principle of rule of law, started to take place:

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<sup>10</sup> The VC is an advisory body of the Council of Europe. It is composed of independent experts in the field of constitutional law.

*The dialogue is a lot stronger now. Ten years ago we only had roundtables and meetings, rarely any projects which are very common now. We know much more about the countries by now and provide different levels of support and expertise*

*(Ibid, 20120326).*

This thesis aims to look at the norm diffusion process following Georgia's and Ukraine's accession into the ENP framework, and subsequently into the EaP initiative. After a thorough revision of several minor achievements that Georgia and Ukraine had reached during the first decade of cooperation through the PCAs, the EU issued country-specific strategy papers. The one for Georgia pointed out "serious problems of governance and continued weak rule of law" and urged "the government and the ruling elites to press ahead with reform" (EC, 20030923:3). By the same token, the Ukrainian Strategy Paper pointed out the country's "weak traditions of rule of law, democratic and civil institutions and free media, and a generally high level of corruption" and suggested that "Ukraine needs to foster [...] democracy, respect for the rule of law and good governance" (EC, 20011227:4f).

Additionally, the country-tailored action plans issued with the purpose of implementation of the ENP, provided a list of so-called "priorities for action" for Georgia and Ukraine. The top priority was given for further strengthening the stability and effectiveness of institutions "guaranteeing democracy and the rule of law" (EC, 20050221:3; EC, 20061114:4). The action plans additionally elaborated on specific steps which Georgia and Ukraine should undertake in order to tackle the existing problems (namely ensuring proper separation of powers, independence and impartiality of the judiciary, prosecution, police and law enforcement agencies) (EC, 20050221:5ff; Ibid, 20061114:4f).

However, following the initial phase of norm emergence, the two countries demonstrated diverging degrees in adoption of the diffused European norm of rule of law. It is important to note that Georgia's and Ukraine's accession into the ENP coincided with their respective democratic Color Revolutions and the changes of the leadership that followed them. The dynamics behind the remaining two stages of the norm "life cycles" will be presented further with the emphasis on the country-specific filters.

## **4.2 Not All Roses: Norm Diffusion in Georgia**

Even though Georgia opened itself for the dialogue with the EU during the years of Shevardnadze's presidency, specific changes did not occur until the change of the leadership following the Rose Revolution. During the early period of Georgia's independence and up until early 2000s, Georgia was characterized as a weak state, if not a failed one. In addition to that, the breakaway regions of Abkhazia and South Ossetia (sovereignty of which has been disputed with Russia), were creating extra pressure and hindering the territorial integrity of the state. Thus, Shevardnadze's geo-political strategy was based on a careful balance between the Russian and the Western influences (Beachain & Polese, 2010:17).



*The police force was very corrupt and ill-equipped [...]. Higher police officials were reportedly involved in kidnappings, drug deals and smuggling [...].The judicial system was struggling to operate independently. Human rights, especially in prisons, were systematically abused. Laws were passed, but since corruption had infested every layer of society, many laws were either not implemented or implemented only if this served the interests of the Shevardanze ‘clan’<sup>11</sup>[...]Many people at all levels complained about the “syndrome of non-punishment”*

*(Ibid, 2010:18).*

In 2004 Saakashvili became the youngest President of Georgia at the age of 37. Educated in the US and France as a lawyer, he came back to Georgia (Ibid, 2011). At the start of his political career, as a key player of Shevardnadze’s team (chairman of the Parliamentary Committee and later the Minister of Justice), he made a public statement about the unbearable levels of corruption in the government and claiming that the leader was not willing to make changes (Beachain & Polese, 2010:16). Saakashvili resigned in 2001, saying that "I consider it immoral [...] to remain a member of Shevardnadze's government" (Bonner, 2008:83). Thus, the new government of Mikheil Saakashvili<sup>12</sup> “inherited” all of the past problems and took over the strategy of Shevardnadze for carrying out the foreign policy aimed at sound relations with Russia and the US (Administration of the President, 2011). Additionally, he added the EU integration dimension onto the agenda and made the domestic reforms a priority for action.

The personal element of the leader constitutes an important “filter” in the case of norm diffusion in Georgia. After being elected a President, he formed a young and pro-West inspired team, composed mainly of young intellectuals educated abroad (Interview 2, 20120327). They were ready to take on the challenges that were left for them by the predecessors. Additionally, they wanted to confront the power “without having to comply with the system they were trying to change” (Beachain & Polese, 2010:18). As one of the CoE officials pointed out, there were also several exceptions that Saakashvili needed to bring on board in order to create a well-balanced team, which would both take on the EU integration and establish sound relations with Russia:

*The most important exception was the Foreign Minister [Grigol Vashadze], who is not that young and was educated in Russia. He held dual citizenship of Georgia and Russia and Saakashvili needed that balancing element in the team*

*(Interview 2, 20120327).*

As mentioned before, eradication of corruption in the public sector and adoption of the principle of good governance became the priority for action of the newly emerged political elite (Mitchell,

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<sup>11</sup> Meaning members of an informal network. Shevardnadze was under pressure from family members and friends with business interests (Beachain & Polese,2010:19).

<sup>12</sup> The interim government was chaired by Nino Burjanadze (November 2007 –January 2008). In this text Saakashvili’s government will be referred to as the “new” – stipulating a considerable change in the leadership composition after the Rose Revolution

2006:672). Simultaneously, laws were passed on making it easier for the government to arrest the “thieves in law” and retrieving the stolen state money (Beachain & Polese, 2010:25). As one of the CoE officials pointed out, the monolithic structure of the ruling elite and “absence of an economic elite serve Saakashvili well and make him “a man of his own” who is not dependent on any interest groups or oligarchs<sup>13</sup>” (Interview 3, 20120328).

In the course of seven years, the European norm of rule of law cascaded into the country’s practices, with the Georgian elite demonstrating a strong support for a change, if not a demand in view of several underlying reasons which will be discussed below. As a result, a wide array of reforms was implemented: namely the police reform, the judicial reform, criminal justice reform, prison reform, combating corruption and tackling organized crime and last, but not least, improvement of public services (Georgian Reforms, 2011220:5ff).

The “tipping point” of the diffusion process occurred relatively fast and mainly due to the fact that the number of norm opponents was minimal. This happened because in March 2004 Saakashvili's National Movement party won the majority of seats in the Parliament (United National Movement, 2012). In May 2004 Georgia ratified the CoE’s Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. The Convention is the first international treaty covering both the prevention and the control of money laundering and the financing of terrorism (CoE, 20050616). This strengthened Saakashvili’s commitment to battling corruption and reforming of the law enforcement bodies (Georgian Reforms, 2011220:16f).

The norm started to cascade even further when one month after ratification of the Convention, several CoE projects and the EU Rule of Law Mission (EUJUST THEMIS) were launched “to support the Georgian authorities in addressing urgent challenges in the criminal justice system” and “assisting the government in developing a coordinated approach to the reform process” (Consilium, 20050722:1f). As part of the program, the European Commission in July approved 5 million euro to strengthen the prison and probation system (Tsitsishvili, 2010:4). Moreover, the American and other foreign donors also assisted Georgia’s reform process (Interview 1, 20120326).

Thus, in a very short period of time the norm, successfully cascading through the legal texts, went onto the stage of internalization. The same year the Parliament adopted a new code of conduct that established ethical norms and aimed at strengthening public accountability (Tsitsishvili, 2010:4). Besides, a massive police reform was performed. As a result, systems leading to petty corruption from the road traffic police were eliminated and the services of the police became modernized (Georgian Reforms, 2011220:6f). Consequently, in 2010 84 % of Georgians had trust in the police, compared to only 10% in 2003 (Ibid, 2011220:6). Additionally, several

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<sup>13</sup> The popular meaning of an “oligarch” is a very wealthy and politically well-connected businessman, a billionaire, or nearly so, who is the main owner of a conglomerate and has close ties with the President (Åslund, 2005:6).

amendments to the old Georgian Criminal Procedure Code were taken, and a brand-new Criminal Procedure Code come into force in 2010 (Prosecutor's Office of Georgia, 2011).

Moreover, Saakashvili was particularly successful in improving the areas of public service for the needs of the citizens by “overhauling the Georgian bureaucracy and cutting red tape”, simultaneously eradicating systems leading to petty corruption (Georgian Reforms, 2011:22). In recent years Georgia also established the “Houses of Justice” – “public service institutions with completely new concept of service delivery by the Ministry of Justice” (Georgian Ministry of Justice, 2011). Their purpose is to combine the state services for citizens wishing to be issued IDs, register businesses or obtain citizenship (Interview 2, 2012:327). Thus, an element of the diffused norm reached the citizens directly and became internationalized into daily practices, through a modernized approach, employed by the elite.

Notwithstanding the success in state-building and tackling corruption, Saakashvili's government is not claimed as “democratic” and the country possesses all the characteristics of the “competitive authoritarian” regime (Levitsky & Way, 2010:18). Levitsky & Way point out that “media harassment persisted, including tax raids of independent TV stations, prosecution of journalists, and government pressure to cancel programs critical of Saakashvili” (Ibid, 2010:227). One of the CoE officials labeled Georgian transformations as “signals for change” or “modernizations” rather than “reforms”. Another critique arose from the citizens being treated as “customers” (Interview 2, 2012:327).

*Even though corruption was eradicated at some levels, and the Georgian people perceive the country as “corruption-free”, some of it still remains at the highest levels. The democratic institutions are still fragile and one can see that there have been no real high-level trials on corruption charges*

*(Ibid, 2012:327).*

The opposition to the current leadership is active, however. It is represented in the Parliament and shares similar EU-aspirations and desires for further democratic transformations (Parliament of Georgia, 2012). In recent years both of the political forces developed a legislative framework for combating ill-treatment and impunity in prisons, adopted the Healthcare Strategy for the prisoners and considerably improved the prison services (Interview 1,2012:326). Additionally, a CoE official pointed out another fragment of the Georgian opposition:

*This modern and young generation sometimes works with a very conservative society, where one of the most popular figures is the Orthodox Patriarch. That sometimes comes to a clash between modernization, which necessarily brings societal changes, and the church, and also a very large part of the conservative population. But that is a very healthy opposition to the young elite*

*(Interview 2,2012:327).*

Without doubt, willingness of the ruling elite to adopt the European norm of rule of law was crucial for the norm to cascade. However, an additional filter, namely Georgia's geopolitical situation, should not be overlooked in this context. The torn relations with Russia – a powerful regional hegemon, facilitated Georgia's pursuit for adoption of the European norm of rule of law. "Georgia's ongoing efforts to bring South Ossetia and Abkhazia back into the country, the absence of any strong democratic neighbors, and the never-ending difficulties with Russia" thus made the EU their "closest" ally (Mitchell, 2006:671). Following the 2008 military conflict with Russia over the disputed territories, Georgia, aiming to find an additional counterbalance to the Russian military capabilities in the region, put forward an aim of subsequent membership in the NATO. The same year the NATO-Georgia Commission was created "in order to assist Georgia to achieve its Euro-Atlantic aspirations" (NATO, 20111110).

The troubled relationship with Russia not only undermined Georgia's security, but also its economy. In 2005 Moscow introduced sanctions on Georgia's wine and mineral water and severed all the transportation links (Georgian MFA, 20070317). Following the Soviet tradition, Russia was the main trading partner and the largest importer of wine and mineral water (ISET Policy Institute, 2011). The 2010 Working Paper on Implementation of the ENP noted that "Georgia's exports continue[d] to suffer from the trade embargo" and proposed the "need for diversification" (EC, 20110525:9). Nevertheless, following the recommendation and complying with the International Monetary Fund's (IMF) assistance, "the country preserved a prudent fiscal and monetary policy stance and made progress in increasing exchange rate flexibility" (Ibid, 20110525:3).

Additionally, Georgia benefited from the EU's Generalized System of Preferences+ (GSP+), which offered "a preferential access to the EU market" in return for passing "certain qualifications for sustainable development and good governance" (European Union, 2007:3; EC, 20110525:11). With the help of the Western allies, Georgia took effort in diversifying its economic sectors and modernizing the spheres of tourism and transport; it also became a gas transit country for the South Caucasus Pipeline – an alternative to the Russian supply (Georgian Ministry of Economy, 2012).

As a consequence of the political and economic cooperation with the EU, Georgia, committed to the pursuit of the Euro-Atlantic integration, identified itself as "Significant We" with the West and the EU in particular. This action fulfills Georgia's "need to be a part of the group" which is capable in shielding it from the "Other" – being Russia. This reflects back to the theoretical discussion on norm cascade (Part 2.2.3), which is closely related to the recipient's positive identification with the norm entrepreneur (Flockhart, 2010:97).

### **4.3 Bitter Orange: Norm Diffusion in Ukraine**

Whilst the European norm of rule of law was cascading rather quickly into Georgia, the process of norm diffusion proceeded in a slower pace in Ukraine. This was primarily due to the fact that

the emerging European norm did not reach the “tipping point” after the Orange Revolution had taken place. However, the opposite was true for Georgia (see Part 4.2). The political elite, which came to power after the Orange Revolution, was criticized by the EU for its ambivalence. “Against the background of the political, economic and legislative reform agenda, the division of executive authority between president and prime minister, as well as the role of parliament, have been a source of political tension since independence” (EC, 20040512:6).

Therefore, the years of Kuchma’s presidency increased stability of the competitive authoritarian regime, which the new “Orange” president Viktor Yushchenko inherited. Kuchma built a “support base among business oligarchs with close ties to the state” and “his governing coalition was based on several competing oligarchic parties” (Levitsky & Way, 2010:216). Not only was the nation’s “ambivalence” present between the competing parties, but also between the economic tycoons who supported them:

*[A] relation of mutual dependence [was maintained] between political and economic actors, while establishing a strategic alliance between the economic elite and the president. In this mutually advantageous exchange, loyal members of the economic elite gained privileges in the redistribution of economic resources, while the president was promised steady support in parliament*

*(Puglisi, 2003:837).*

Thus, the oligarchy took root and has been flourishing until this day (Ibid, 2003:838f). As a consequence, Ukrainian norm opponents and proponents are not present on the political level only. They also possess an additional dimension of the divided economic elite. A part of the economic elite is believed to have “lucrative relations with Russia”, in turn deliberately hindering Ukraine’s integration with the EU, lobbied by another group of the economic elite (Kyivpost, 20111215). Åslund states that in this kind of relationship the political elite offers “a number of goods to buy”, namely presidential decision, legislation from the national parliament, court decisions and the media (Åslund, 2005:7). This kind of dependence between the political and economic elites fuels corruption and hinders democratic transformations in state building and functioning of the rule of law.

In addition to the East-West “business divide”, there is an identical historic division between the pro-Russian East and the Europe-leaning West (Åberg&Sandberg, 2003:7). As pointed out by one of the CoE’s officials:

*Ukraine possesses an additional dimension of the national identity: East and West have varying mentalities. This identity influences what happens in the country. Ukraine is certainly a more complicated case [than Georgia]*

*(Interview 3, 20120328).*

Following the pro-European slogans of the Orange Revolution, Yushchenko chose the “strategic foreign policy goal of the EU membership” (BBC, 20050125). Those EU-aspirations got even further enhanced by the EU-Ukraine Action Plan within the ENP framework which “set out a comprehensive list of priorities within and beyond the scope of the formed PCA” (EC, 20050221:3). Thus, strengthening of the principal of rule of law was assigned as the top priority for action for the years of Yushchenko’s presidency. Following the previous decades of poor state governance and corruption, this was one of the hardest tasks for him to complete.

Despite the rhetoric on the EU aspirations, concrete steps of Yushchenko on adopting the norm of rule of law, were hardly spotted. Several judges and top officials from Kuchma’s team were prosecuted for corruption charges and abuse of office (Korduban, 2007:1). Later these charges were revealed to be “politically motivated” (Ibid, 2007). The 2007 ENP report made numerous references to the VC’s recommendations regarding Ukraine’s continuous need in “reforming and limiting the excessive powers of the prosecution service”, “closing the loopholes which allow allegedly corrupt persons to escape jurisdiction”, and “creating a professional, politically impartial civil service in accordance with European standards”, among many others (EC, 20080403:4).

There is a doubt in whether the “tipping point” of the norm diffusion process ever occurred during the years of Yushchenko’s presidency. It seems that instead of tackling numerous problems by putting effort into adopting the European norms, he was fully devoted to the competition for power with Prime Minister Yulia Tymoshenko. Prior to her post, she was Yushchenko’s ally in the opposition coalition, formed just before the Revolution. According to one of the CoE’s officials “Tymoshenko wanted to be either a strong President or a strong, chancellor-style, Prime Minister.” (Interview 3, 20120328). Contradictory, both the President and the Prime Minister made public statements in favor of the European integration and importance of the rule of law; however “consent between them was hardly possible” (Kyivpost, 20080214).

The outcome of Ukraine’s democratization during Yushchenko’s presidency “remained very fragile” (Levitsky & Way, 2010:220). In 2010, Yanukovych, the leader of the Party of Regions defeated his rivals Tymoshenko and Yushenko in presidential elections that were “widely considered free and fair” by the international observers (Ibid, p.220). Backed up by the wealthiest oligarch Rinat Akhmetov, whose business interests are strongly connected to Russia, the strategy for foreign policy of Yanykovych’s has been aimed at sound relations with Russia and the pursuit of the European integration, simultaneously (Forbes, 2012; The Moscow Times, 20100324). One of the CoE’s officials pointed out that:

*At the beginning of Yanukovych’s presidency, there was a concern that if pushed too hard, Ukraine will turn to Russia. Therefore, the approach of the EU and the CoE was cautious. The dominant view now is that Ukraine is committed to the EU integration and does not want to be a satellite of Russia. At the end, Yanykovych wants to be his own boss*

*and the oligarchs want to be a big fish in the Ukrainian pond and a small fish in the Russian pond*

*(Interview 3, 20120328).*

Furthermore, Ukraine's energy dependence on Russia puts the country into a disadvantageous position in its pursuit of European integration. A CoE representative mentioned that by not adopting a European norm, "a signal is sent to Moscow, stating, "Don't you worry, democracy has not yet come here so far" (Interview 2, 20120327). This behavior is thus easily interpreted in the Kremlin as Ukraine's willingness to cooperate with Russia, rather than the EU.

The competitive authoritarian regime has thus prevailed in independent Ukraine despite the changes of the leadership (Levitsky & Way, 2010:220). The present team of Yanukovich is mainly composed of middle-aged officials, majority of whom have Russian as the mother tongue which is "a direct misconduct of the law" (Ukrainska Pravda, 20100720). The team, however, is reported to "speak in one voice" but with "stability in the sense of the old-style and control" and with "reasoning by showing force" (Interview 1, 20120326; Interview 2, 20120327). It therefore remains unclear whether the "tipping point" of the norm "life cycle" has occurred under the present government. For example, the President's National Anti-Corruption Strategy which was a visible step towards adoption of the European norm rule of law was applied in a discriminatory manner, "substantially with the purpose of jailing several opposition leaders" (Kyivpost, 20111023). As stated in the latest ENP report, "Several leading opposition figures, including former Prime Minister Tymoshenko, were subjected to selective justice, characterized by un-transparent judicial processes" (EC, 20120515:3).

In order to "motivate" the leader (which is a common practice that a norm entrepreneur may utilize at the norm cascade phase), the EU offered an appealing conditionality in form of economic integration: "successfully addressing the issue of selective justice would open the way to the signature and ratification of the Association Agreement between Ukraine and the EU" (Ibid, p.2). Nevertheless, the economic approximation through the Association Agreement does not seem to be a very attractive "carrot" which the EU intends to offer in return for the release of the opposition leader and further norm adoption. However, the CoE – an organizational platform for diffusion of democratic norms – does not have any economic incentive behind its action. "We come with less clout than the EU, but once there is trust and practical cooperation, it is about achieving actual results [on adoption of the European norm of rule of law] and not about something else", noted one of the CoE officials (Interview 1, 20120326).

The fact whether the current Ukrainian leadership engages in norm adoption process through the motivation, exercised by the EU incentives, or simply out of own pursuit of the European standards from the CoE's opinions and recommendations, or both – remains unclear. However, after the scandalous imprisonment of the opposition leaders and a vast amount of diplomatic pressure, a new Criminal Procedure Code was adopted by Ukraine. As one of the CoE officials

pointed out, “criticism is the thing the President does not like. He does not want to have a bad image” (Interview 3, 20120328).

As a consequence, the Criminal Procedure Code was noted for having been “carried out with the particular support and encouragement of the CoE”, which acted as an advisor on changes of the legal text (PRNewswire, 20120413). The new Code replaces the one introduced in the Soviet times (1961) and “gives practical effect to the requests made by European bodies for improvements in the way criminal proceedings are handled in Ukraine” (Ibid, 20120413). As noted in the CoE report:

*[T]he Code has substantially transformed the approach to be followed in the criminal process and, in particular, the roles of judges, lawyers and prosecutors. Furthermore it provides an appropriate framework to secure the rights of the accused without handicapping the ability to bring criminals to justice or neglecting the legitimate interests of victims of crime*

*(CoE, 20120510:42).*

To what extent the European norm will get internalized and cascade down to the society level after adoption of the Code, built upon the diffused norm of rule of law, remains uncertain. As of 2012, the Ukrainian courts remain the “least-trustful” institutions in Ukraine, with only 8% of respondents demonstrating their trust (Ukrainska Pravda, 20120118). The police comes next with 10% (Ibid, 20120118). In 2011 only 10% trusted the judiciary and 25% were afraid of being accused of the crimes they had not committed (Ibid, 20120118). Additionally, the corruption rankings in Ukraine remain high, with no significant improvement spotted during the changes of the leadership: in the TI rankings Ukraine downgraded from its 122<sup>nd</sup> place in 2004 to 152<sup>nd</sup> in 2011 (Transparency International, 2012).



## **5. Analysis**

Drawing from the empirical studies presented above, this Chapter will analyze the main findings derived from them in accordance with the framework constructed earlier in Part 3.4. The purpose of the analysis is to draw inferences from the two cases and find out what constitutes a fertile ground for adoption of the European norm of rule of law in Georgia and Ukraine.

### **5.1 Country-specific Filters**

The direct legacy of the Soviet era certainly remains one of the main filters which influences the pace of the norm adoption in the two countries. Not only has it affected people's perception of the rule of law, but also left a mark on how the legal institutions and the state interact with each other. Nevertheless, the empirical study pointed out several other country-specific filters, which may affect overall results of the norm diffusion process in Georgia and Ukraine.

#### **Elite composition**

The Georgian ruling elite constitutes a “monolithic structure” with power concentrated in hands of one influential leader. This type of leadership excludes the influence of the economic elite on decision-makers process. Moreover, the country leadership is composed of young intellectual people, educated in Western universities. Additionally, the team benefits from a good balancing element, namely the Foreign Minister with personal and educational ties to Russia. This composition ensures sound relations both with the EU and the US and Russia.

The “ambivalent structure” of the Ukrainian ruling elite is characterized by a clear divide and interrelation between the influential political and economic actors. As a result, the political elite are subordinate to the interests of the economic tycoons. Business interests of the economic elites, in turn, match the East-West ethnical and linguistic divide of the country. One “clan” is eager to maintain good business relations with Russia, whilst the other is oriented on doing business with the EU.

The political opposition both in Georgia and Ukraine are generally in favor of adopting the European norms. However, in view of the competitive authoritarian regime structures, there is an assumption that the opposition parties use democratic institutions to compete more seriously for power, yet “they are not democratic because the playing field is heavily skewed in favor of incumbents” (Levitsky & Way, 2010:5). The opposition exists in both cases, but with little tolerance of the leading party. Competition is thus real but unfair.

#### **Domestic situation**

##### ***Geopolitical***

Following the 2008 war with Russia, Georgian – Russian relations considerably deteriorated and Georgia’s security concerns increased. Territorial conflicts over the two disputed territories continue up until now. In the meantime, Georgia aims at strengthening links with the EU, the US and most importantly, the NATO.

Ukraine, on the other hand, being “torn” between the EU and Russia both geographically and politically, considers the EU integration as its primary foreign policy objective. Yet, in practice Ukraine balances the relationship with the EU and tries to maintain sound relations with Russia in view of its energy dependence.

### ***Economic***

During the Soviet times Georgia’s economy to a large extent depended on wine exports and tourism. Following the Soviet tradition, Russia was Georgia’s main trading partner and wine importer. In 2006, in due to the territorial conflict, Russia imposed a trade embargo on the Georgian wine. Nevertheless Georgia took effort in diversification and modernization of its tourism, services and transport spheres, thus turning the curse into a cure, and boosting its economic development (EBRD, 20120518).

The economy of Ukraine was the second largest in the Soviet Union, contributing with its important industrial and agricultural components. The rise of the oligarchs (the economic elite) has been connected to privatization of state-owned assets inherited from the Soviet times. A part of the economic elite has strong ties with Russia and aims to pursue its business interests with the Russian counterparts. The interests of the other “clan” are oriented on deepening business relations with the EU.

### **Quality of governance**

In Georgia Saakashvili’s government eliminated petty corruption arising from the road traffic police, courts and the public service sector in Georgia. The corruption watchdog Transparency International (TI) placed Georgia on 64<sup>th</sup> place in 2011 (a significant leap from 127<sup>th</sup> in 2003). The situation in the “higher ranks”, however, remains unclear.

The Ukrainian government of Yanykovich, just like his predecessors, put fight against corruption on top of the political agenda. As a result, several officials were arrested or questioned. Thus, the National Anti-Corruption Strategy may have caused the recent politically-motivated trials. Petty corruption is flourishing up until now. In 2011 Ukraine was ranked number 152 by TI, thus demonstrating regression since its 122<sup>nd</sup> place in 2004.

## **5.2 Domestic Situation and the Logics of Behavior**

Part 2.4 of this thesis pointed out that the logic of consequentiality is most likely to guide the ruling elites’ decisions on adoption of the European norm of rule of law. The following

discussion will elaborate on possible reasoning of the ruling elites, in view of the domestic situations posed in the specific environments. Additionally, each category of the domestic situation will be summed up in a table together with probable reasoning of the elites.

***Geopolitical***

In view of the dramatic geopolitical situation in Georgia, the most “appropriate” action for the ruling elite was to find a strong Western patron (EU, US, NATO) which could shield them from Russia. Thus, by adopting a democratic norm of rule of law (which is strongly rejected in Russia), Georgians highlighted the “Significant We” and “Other” divide. This action, in turn, improved Georgia’s image and attractiveness of a strategic and reliable partner of the West. Therefore, Georgia’s determination in view of the utility-maximizing reasoning on the geopolitical situation was: “To adopt”.

A speedy adoption of the European norm in Ukraine would be considered as “deception” by Russia. Thus, being “torn” between the Russian and European influences, Ukrainian political elite does not seem to rapidly reform the existing system. In their reasoning, democratization is not “appropriate”, as it may lead to unwanted repercussion from Russia (for example, raised gas prices). The reasoning of the Ukrainian elite was, as a result: “Not to adopt”.

***Economic***

Torn economic relations with Russia caused Georgia to seek ways to improve its economic situation. Thus, the leadership took measures to raise Georgia’s attractiveness to foreign investors. The legal environment, being a crucial component of reliable business relations, thus needed to be modernized and freed from corruption. Adoption of the norm of rule of law was thus a crucial step. Georgia’s decision was therefore: “To Adopt”.

The interests of the major business tycoons in Ukraine are built on the premise of maintaining sound relations with Russia and increasing their profits through the large Russian market. Therefore, the economic elite, which are very influential in the decision-making process, in view of their lucrative relations with Russia, may deliberately hinder Ukraine’s choice of the European integration. Moreover, it would be “inappropriate” for the Ukrainian political elite to tear the ties with the economic tycoons who also act as “sponsors” of their political parties. Ukraine’s decision was thus: “Not to adopt”.

<b>Country</b>	<b>Category</b>	<b>Situation</b>	<b>Decision</b>
Georgia	Geopolitical	Complex	Adopt
	Economic	Complex	Adopt
Ukraine	Geopolitical	Stable	Not to Adopt
	Economic	Stable	Not to Adopt

**Figure 4. Decisions on norm adoption in relation to the domestic situation.**

The table shows Georgia’s inclination towards norm adoption and Ukraine’s choice to remain status quo

## 5.3 Conditions for Norm Adoption

In the case of Georgia, the *strained geopolitical and a complex economic situation* facilitated the rapid adoption of the European norm of rule of law by the ruling elite. Furthermore, Georgia consciously chose to positively identify itself with the norm entrepreneur – the EU as “Significant We”. Russia, in view of this choice, became the “Other”. This in turn motivated the Georgian leaders for a stronger commitment to the reform process.

Despite of the fact that the Ukrainian political elite explicitly stated the EU-aspired vector of development, a positive identification with the norm entrepreneur (“Significant We”) is still missing. This is primarily due to the fact that the population is divided between the East (which identifies itself with Russia) and the West (which is more EU-oriented). In addition, the political elite greatly depend on the Russian energy supply and take the relationship with Russia in a submissive way.

Moreover, the interests of the Ukrainian economic elite coincide with the East-West ethnical and linguistic divide, and preferences of maintaining strong business ties with Russia dominate over the aspirations for European integration (which in the first place entails adoption of the European norms). Therefore, *a relatively stable geopolitical situation which does not adversely affect state security, together with a steady economic situation*, altogether identify the Ukrainian elites’ choice in favor of stability and denial to adopt the European norm of rule of law.

## 5.4 Explaining a Fertile Ground for Norm Adoption

The hypothesis presented in Part 2.3 considered the varying reasoning of the ruling elites (both belonging to the competitive authoritarian regimes) in relation to the respective domestic situations. The hypothesis stated that the diverging outcomes of norm diffusion may be explained by the elites’ reasoning based on the consequences which adoption of a foreign norm may entail.

The analysis carried out above allows tracing the hypothesized pattern in the two cases. Notably, by viewing norm adoption as a beneficial step towards protection of Georgia’s security and strengthening of the economy, the Georgian elite committed to their westward path of development not only rhetorically, but through concrete actions. The Ukrainian elite, on the other hand, relying on their utility-maximizing logic derived from maintaining sound political and economic relations with Russia, chose to pursue its undemocratic stability. This stability is however viewed by Russia as “partnership”, whereas adoption of the European norm would be signaled as “betrayal” to Russia.

The young and West-educated Georgian elite may have certainly added to the overall results of norm diffusion, primarily due to the fact that younger generations in the post-Soviet countries are generally against corruption and are in favor of good governance and rule of law (Kupatadze, 2012:26). The Ukrainian political elite, dominated by the “old school” and pro-Russia officials, is aimed at pursuing own gainful interests, rather than well-being of the Ukrainian people. These

qualities of the political elite may certainly have influenced their choice in favor of remaining status quo.

Additionally, the outcome of Saakashvili's fight with corruption in the law institutions may have served as an initial internal stimulus towards Georgia's swift adoption of the European norm of rule of law. Eradication of corruption may break the links with the post-Soviet legacy, engraved into people's perception of law and power. Since the Ukrainian political elite did not follow any concrete steps in eradication of corruption, the inaction from the side of the political leaders may have served as a counter-norm to the diffused one.

Therefore, in view of the findings presented above, it may be stated that the European norm of rule of law may find a fertile ground in the environment, the security and economic situation of which may be endangered by pressure from a stronger actor. This situation entails no other alternative but finding an even stronger patron. Thus, the decision-makers are guided by the logic that the adopted European norm may earn the trust of a stronger patron and thus "shield" the country in geopolitical and economic sense. As a result, the vulnerable actor chooses positive "Self-identification" the norm entrepreneur and separates itself from the "Other".

Although the concept of norm diffusion is related to constructivism, the above-mentioned line of reasoning on the conditions for norm adoption takes us back to the realism dogma. *A fertile ground for adoption of a European norm is thus an environment which is insecure in geopolitical and economic sense due to the pressure executed by a stronger actor (regional hegemon). Such state expresses a need in patronage from a norm entrepreneur with even stronger capabilities and therefore views norm adoption as a prerequisite to establishing trust and cooperation with the patron.* These outcomes, however, are not universal and apply only to the two case investigated in this study and not to the norm diffusion process in general.

## 6. Conclusions

Norms and ideas certainly “do not float freely”. There are always promoters of a norm and recipients who may be at times contested with two options: to adopt a foreign norm and thus bring a democratic change into the country or to pursue the undemocratic stability. The study has shown that an adopted foreign norm may trigger significant consequences for the country’s economic and security conditions. The aim of this thesis was to analyze the process of adoption of the European norm of rule of law by the post-Soviet states of Georgia and Ukraine, in order to define the domestic conditions which cause the diverging degree of norm adoption in the two countries.

The conceptual model of this study integrated the norm “life cycle” model and the country-specific “filters” which a diffused norm has to surpass before becoming adopted into a new environment. Whilst the norm diffusion process was portrayed as a cyclic process, the components of the recipient environment (geopolitical and economic situation, composition of the elites, type of governance), represented solid structures. Additionally, a hypothesis was put forward, stating that the diverging outcome of norm diffusion may be caused by dissimilar reasoning of the ruling elites in regard to the specific domestic conditions. As a result, the two logics of action (logic of appropriateness or consequentiality) were integrated into the analysis.

The answers to the overarching question “What constitutes a fertile ground for adoption of the European norm of rule of law in the post-Soviet states of Georgia and Ukraine?”, were found through the analysis performed in Chapter 5. A fertile ground for adoption of the European norm of rule of law is thus an environment which is *insecure in geopolitical and economic sense due to the pressure executed by a stronger actor* (a regional hegemon). Such state expresses a need in patronage from a norm entrepreneur with even stronger capabilities and therefore views norm adoption as a prerequisite to establishing trust and cooperation with the patron.

Accordingly, the conflict with Russia caused a strained geopolitical and a complex economic situation in Georgia and made it seek Western patronage. Thus, the reforms in the sphere of rule of law could bring the country closer to cooperation with the EU and NATO. Moreover, the stagnating economic situation which followed after the Russian embargo on Georgia’s main export products motivated the Georgian elite on diversification of the country’s economy and raising Georgia’s image in order to attract foreign investors.

Hence, the legal environment, being a crucial component of reliable business relations, needed to be reformed and freed from corruption. Adoption of the norm of rule of law was a vital step for Georgians and the demand for the democratic reforms, therefore, rose significantly. Thus, despite Georgia’s geographical remoteness from the Union, it consciously chose to positively identify itself with the EU as the “Significant We” and to adopt the democratic norm which would counterweight the might of the “Other”, being Russia.

In contrast, a relatively stable geopolitical situation in Ukraine, which does not adversely affect state security or economy, identified the elites' choice in favor of stability and denial to adopt the European norm of rule of law. Furthermore, the ethical and linguistic divide between the pro-European West and the pro-Russian East coincides with the diverging business interests of the economic tycoons and thus complicates the norm diffusion process in Ukraine. The economic elite that have ties with the Russian oligarchs impose a strong lobbying power at the present government. Adoption of the European norm of rule of law would result in signalling "betrayal" to Moscow. This situation leaves Ukraine's demand for democratic transformations very low. Moreover, the country does not seem to express positive identification as "Significant We" with neither the EU in view of the geographical proximity, nor with Russia, in view of their dependence on energy sources and the prevailing business interests of the economic elite.

The comparison of the qualities of the ruling elites proved that certain characteristics may indeed influence the pace of norm diffusion. Whilst the Georgian young and West-educated intellectuals are more prone to reforming the inherited undemocratic post-Soviet system, the Ukrainian elites are characterized as predominantly pro-Russian, "old school" individuals. As a result, the qualities of the Georgian elite serve as stimuli to their further willingness to reform the existing system. The ambiguity of the Ukrainian ruling elite, together with its characteristics and the immanent East-West divide, complicate the situation even further, thus slowing down the norm diffusion process.

Although the concept of norm diffusion is related to social constructivism, which views international relations as constructs by people, the above-mentioned line of reasoning on the domestic conditions for norm adoption brings up the realism dogma. The categorization of the investigated domestic conditions was based on power, practical factors and material considerations of the ruling elite. While realism and constructivism are opposite schools of political theory, together they were able to fill in certain theoretical gaps and complement the research.

## 6.1 Prospective Research

This study has covered only a small part of the highlighted area of research. In order to attain an even broader and clearer picture on the diffusion of the European norm of rule of law in the post-Soviet space, a more detailed “filters”-based investigation needs to be performed for all of the six countries of the EaP initiative. An analogous hypothesis could be posed to the proposed research with the purpose of investigating the impact of the domestic conditions in all of the EaP countries on the pace of adoption of the European norm by the domestic elites.

Moreover, when writing this thesis, a new “success story” of norm diffusion emerged. Similarly to Georgia at the beginning of 2000s, Moldova found itself in the deadlock situation – struggling economy, difficult internal political situation and a territorial conflict in which Russia supports the position of its breakaway territory. Nevertheless, with the leadership change in March 2012, several concrete steps have already been taken by the Moldovan elite in adoption of the European norm of rule of law. Moreover, the EU has positively acknowledged Moldova’s progress in resolving the Transnistrian conflict. Consequently, the case of Moldova’s transformations may complement the proposed “filters”-based research on norm diffusion within the EaP framework.



# Executive Summary

The main focus of this thesis is the norm diffusion process within the framework of the European Neighborhood Policy (ENP). Aimed at approximation of the neighboring countries' norms and standards with the ones of the European Union (EU), this comprehensive policy is in turn intended to safeguard the Union's security, stability and prosperity. This study examines the process of diffusion of the European principle of rule of law in Georgia and Ukraine through the organizational platform of the Council of Europe (CoE) – an organization specialized in democracy and rule of law promotion. As a result of the diffusion process, Georgia, located thousands of kilometers away from the EU borders, is highlighted as a success story of its transformations and reform achievements in the sphere of rule of law. Ukraine, on the other hand, is lagging behind, despite its geographic proximity. In regard to the deviance, a research puzzle was put forward: *how did the European norm manage to travel so far into a small mountainous country in the Southern Caucasus and find fertile soil there, and avoid a large Ukrainian territory, located in Europe's backyard?*

This research topic is highly relevant to draw attention to, as there is a need for a more thorough investigation of the factors which can cause the dynamics of the diffusion of the European norm of rule of law within the ENP framework. Thus, in addition to revealing the methods that the EU employs in carrying out its Neighborhood policy with Ukraine and Georgia, the thesis will also focus on the specific factors (“filters”) which may influence the diffusion dynamics. A research on norm diffusion process, applied for individual countries may help to determine what means need to be employed by the EU in order to reap more positive results from its investments into the democratization process. This study may also fill in the gaps in the existing research on norm diffusion within the ENP and open up new prospects for further analysis the effectiveness of the EU-sponsored reform projects and efficiency of distribution of the EU funds – which is feasible in the context of the turbulent times which the global economy has entered.

The scope of the study is aimed at problematizing the *factors* that are crucial for the dynamics of the diffusion process in the two countries. However, it is not aimed at generalizing the norm diffusion process in the post-Soviet environment per se. The aim of this thesis is thus *to analyze the process of adoption of the European norm of rule of law by the post-Soviet states of Ukraine and Georgia*. This will be done with the purpose of defining the domestic factors and structures which trigger the diverging degrees of adoption of the identical foreign norm diffused into the countries with similar historic background via the alike mechanisms.

The overarching theoretical question of the study is: *What constitutes a fertile ground for adoption of the European norm of rule of law in the post-Soviet states of Georgia and Ukraine?* In addition to the primary research question, subordinate questions will be put forward in order to define the factors which may influence the dynamics of the norm diffusion process on the ground: *Why is there a lack of demand for democratic reforms in Ukraine, but abundance in Georgia?*

*What can explain Georgia's geographical remoteness, but ideological proximity to and rapid adoption of the European norms, whilst the opposite seems true for Ukraine? How can the qualities of the Georgian and the Ukrainian elites (such as leadership, composition and education) act as forces in favor or against of norm adoption?*

In order to be able to understand the dynamics of the norm diffusion process in the two country-cases, the study utilized the concept of the *norm "life cycle"*, developed by Finnemore & Sikkink (1998). It consists of three stages – norm emergence, norm cascade and internalization. These stages were scrutinized further and complemented by additional theoretical concepts, which could explain the peculiarities of the domestic structures of the recipient states. Thus, the study introduced the concept of *"filters"* which cover a multitude of country specific factors and act as determinants of the speed of the diffusion process. Relying on the fact that Georgia and Ukraine share the characteristics of the *competitive authoritarian regime*, the composition of their ruling elites, together with the respective quality of governance and domestic conditions (geopolitical and economic situation) constitute the country-specific filters.

Whilst norm diffusion may be characterized as a cyclic process, the components of the recipient environment represent solid structures. Additionally, the two logics of political action – utility-maximizing logic of consequentiality and a values-related logic of appropriateness – get introduced with the purpose of explaining the motives of the ruling elites in regard to norm adoption. Subsequently, a hypothesis is put forward stating that *the diverging outcome of norm diffusion in Georgia and Ukraine may be caused by the distinct domestic situations and dissimilar reasoning of the ruling elites' in regard to the consequences of adoption of the foreign norm*. Although the concept of norm diffusion is related to social constructivism, that views international relations as constructs by people, the above-mentioned line of reasoning on the domestic conditions for norm adoption brings up the realism dogma. The categorization of the investigated domestic conditions is thus based on power, practical factors and material considerations of the ruling elite. While realism and constructivism are opposite schools of political theory, together they are expected to fill in certain theoretical gaps and complement the research.

In order to assess whether the hypothesized statement is true, the *case study method* was applied to the two deviant cases with the purpose of tracing causal mechanisms responsible for the pace of norm diffusion in each individual case. It then culminated with a cross-case comparison of respective conditions for norm adoption. For this purpose, the analysis applied the method of *structured and focused comparison*. In order to be able to trace the process, the thesis employed a text-analytical approach which complemented the data retrieved from the interviews with the CoE officials. In addition to the primary sources published by the CoE and the EU, the thesis utilized secondary data in form of news articles and publications from independent sources.

The analysis of the study was based on the analytical framework built upon the norm "life cycle" model and integration of the elite-centered and "filters"-based approach. Thus, by scrutinizing the

reasoning of the key decision makers in regard to norm adoption, at each phase of the norm “life cycle”, the domestic situation filter (geopolitical and economic) was contrasted with the ruling elite’s reasoning regarding the consequences of norm adoption (through either the logic of appropriateness or consequentiality). In addition to the domestic situation, the framework envisioned cross-case comparison of the peculiarities of the elite composition and the quality of governance in the respective countries. These conditions were consequently contrasted between the two cases with the purpose of drawing inferences on what constitutes a fertile ground for norm adoption.

The conclusions reached from the analysis depict a pattern which resembles the one outlined in the hypothesis. It was observed that the strained geopolitical and a complex economic situation in Georgia (which was caused by the conflict with Russia), facilitated the rapid adoption of the European norm of rule of law. At the same time, a relatively stable geopolitical situation did not adversely affect Ukraine’s security or damaged the interests of the economic elites who have close ties with the Russian oligarchs. This observation served as an explanation to the slow pace of norm adoption in Ukraine.

Thus, the lack of demand for the democratic reforms in Ukraine may be explained by its geopolitical security, relatively stable economic situation and sound relations with Russia. Georgia’s demand for democratic reforms, however, was a consequence of its complex geopolitical situation, economic decline and torn diplomatic relations with Russia. With the help of the democratic transformations Georgia was able to achieve EU’s patronage and counter-balance with Russia.

It therefore is evident that Georgia’s positive “Self-identification” with the West and especially Europe, drew the country to the ideological proximity with the EU, despite its geographical remoteness. The willingness of the Georgian elite to demonstrate the reform achievements in the sphere of rule of law to the undemocratic “Other” (Russia), facilitated their rapid adoption of the European norm. Moreover, the reformed legal sphere became a prerequisite of attraction of foreign investors and resolving of the complex economic situation.

Yet, the opposite seems true for Ukraine. Despite its location in Europe’s vicinity, the ruling elites have remained committed to maintaining sound economic and political relations with Russia. Adoption of a European norm of rule of law would thus signal “betrayal” in Moscow and the interests of the influential economic elites (who have strong ties with the Russian oligarchs) could be damaged. Thus, the status quo in adoption of the European norm of rule of law, however with the rhetoric of the pursuit of the EU integration, put Ukraine onto an ambivalent path. Furthermore, the complexity of the ethnical and cultural division of the country into the pro-European West and the pro-Russian East, coincides with the interests of the two clans of economic elites. This creates an extra hurdle on Ukraine’s pursuit of its democratic transformations.

As it was noted above, the qualities of the ruling elites may influence the pace of norm adoption. Whilst the Georgian young and West-educated intellectuals are more prone to reforming the inherited undemocratic post-Soviet system, the Ukrainian elites are characterized as predominantly pro-Russian, “old school” and ambivalent officials. The ambiguity of the Ukrainian ruling elite and the East-West divide of the country, complicate the situation even further, thus slowing down the norm diffusion process.

A fertile ground for adoption of a European norm is thus *an environment which is insecure in geopolitical and economic sense due to the pressure executed by a stronger actor (regional hegemon)*. Such state expresses a need in patronage from a norm entrepreneur with even stronger capabilities and therefore views norm adoption as a prerequisite to establishing trust and cooperation with the patron. These outcomes, however, are not universal and apply only to the two cases investigated in this study and not to the norm diffusion process in general.

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## **Interviews**

All of the four officials of the Council of Europe chose to be anonymous.

One of the interviews was carried out with two representatives of the same Directorate.

Interview 1 (20122603), Council of Europe, Strasbourg

Interview 2 (20122703), Council of Europe, Strasbourg

Interview 3 (20122803), Council of Europe, Strasbourg

# Appendix

## Appendix 1. List of interview questions

Council of Europe Headquarters, Strasbourg (France)

26– 28 March 2012

I. Georgia is known as a “success story” for implementing an impressive array of reforms in the sphere of rule of law (e.g. combating corruption, police reform) following the Rose Revolution of 2003. Would you agree with the statement that Georgia is a “success story”?

- 1 How would you characterize the overall achievements of the Georgian judicial reform from the year 2003 and until today? What about other reforms?
- 2 How open are the Georgian elite to adoption of the European norm of rule of law?
- 3 Would you agree that willingness of the political elites to reform the system is essential?
- 4 Do geopolitical factors in Georgia have an impact on the reform process?
- 5 Georgia is known for its very young and ambitious president and the young representatives of the governmental structures, all educated at Western universities. Does the composition of the elite have any impact on the reform process (if compared to Ukraine or other countries)?
- 6 What role does the Georgian civil society play in the reform process?

II. Levitsy & Way in their book titled *Competitive Authoritarianism: Hybrid Regimes After the Cold War* cite various media and human rights reports to describe Saakashvili's Georgia as a "competitive authoritarian" (a formally democratic but essentially non-democratic). On the other hand, the World Bank rankings of corruption levels in the Georgian society, easiness of doing business, levels of trust to the officials are impressively good. What are the explanations to such a paradox?

III. If compared to the results and the speed of reforms in Georgia, Ukraine is lagging behind, especially with the recent course of events in the judiciary (imprisonment of several opposition leaders). On the other hand, the present Ukrainian government (since 2010) stressed their “European” commitments and willingness for reforms. How would you describe the course of the reform in the sphere of rule of law under Yushenko, following the Orange revolution and until 2010, and the present government of Yurykovich?

- 1 Does the Ukrainian civil society take active role in transformations in the sphere of rule of law?

- 2 Once the domestic officials approve a proposal from the EU and the CoE to carry out a certain program, the implementation stage of the project begins. How would you describe the *process* of implementation of the programs aimed at assistance with the judiciary reforms in these two countries? Does the inherited post-Soviet legacy in the countries influence the pace of the programs' implementation?
- 3 What are the main obstacles to reforms in Ukraine and Georgia? Are the problems similar or different?
- 4 What means do the CoE and the EU use in order to tackle these problems?

IV. Both Ukraine and Georgia are currently negotiating the Association Agreements with the EU. In order for them to be signed, the countries need to provide guarantees on being trustworthy partners. Good governance and the rule of law are the main prerequisites of the Agreements. Were there any vivid changes in the pace of reforms in these two countries after the negotiations had started?

- 1 If business interests (and business opportunities that come with the Association Agreement) are at stake, and the reform process is on the other scale, how effective is the use of the EU's conditionality in practice?
- 2 What are the perspectives of the judiciary reform in the two countries for the next five years?

V. Drawing from the experiences of the CoE's cooperation with other countries, what factors would you call *essential* for successful dissemination of a European norm? What about reforms in other spheres?

## **Appendix 2. List of joint programs of the Council of Europe and the European Union**

### **Georgia**

#### **SC-MLD-MEDIA II Promoting freedom, professionalism and pluralism of the media in the South Caucasus and Moldova**

01/01/2011 - 31/12/2012

*Support the development of legal and institutional guarantees for freedom of expression, higher quality journalism and a pluralistic media landscape in Armenia, Azerbaijan, Georgia and Moldova, in line with the Council of Europe standards and as regards both "traditional" and "new" media*

#### **Georgia – Elections Electoral assistance in South Caucasus**

01/10/2008 - 30/04/2009

*To provide electoral assistance to the countries of South Caucasus in order to improve the overall electoral process, to draw lessons from previous elections and to tackle shortcomings identified by international observers (CoE and OSCE)*

#### **SC-MLD-MEDIA Freedom of expression and information and freedom of the media**

01/01/2008 - 31/12/2009

*To assist the beneficiary countries in developing measures allowing promotion and protection of the right to freedom of expression and access to information in the long term. To promote media quality and diversity*

#### **SC-MLD-Elections Support to free and fair elections- EIDHR**

01/01/2008 - 30/04/2010

*To assist the countries of the South Caucasus and Moldova in conducting 2008-2009 elections in line with the democratic standards*

#### **Georgia – Strengthening Local and Regional Democracy, Human Rights Protection mechanisms and the Rule of Law**

17/02/2003 - 17/08/2005



*To strengthen local democracy, human rights protection mechanisms, the normative framework of the judiciary and law enforcement bodies, and the fight against corruption*

### **South Caucasus**

20/02/2002 - 19/08/2004

*Assist Armenia, Azerbaijan & Georgia to reform legislation and practice, strengthen the protection of human rights, improve the functioning of democratic institutions*

### **Ukraine**

#### **Ukraine – Media Promoting European Standards in the Ukrainian Media Environment**

01/09/2008 - 31/12/2012

*To raise standards of journalism with a view to ensuring that the Ukrainian public is better informed about political and social processes in Ukraine and provide continuing support to the process of enhancing the media legislative framework*

#### **UKR-TEJSU Transparency, independence and efficiency of the judicial system and increased access to justice for all citizens in Ukraine**

03/06/2008 - 31/12/2011

*To ensure that:*

*Efficiency and independence of the judicial system is strengthened, access of citizens to and confidence in justice is improved, the lawyer profession is reinforced, system of enforcement of judgments is operational*

#### **UPAC Ukraine - project against corruption**

08/06/2006 - 31/12/2009

*To contribute to the prevention and control of corruption so that it no longer undermines the confidence of the public in the political and judicial system, democracy, the rule of law and economic and social development in Ukraine*

#### **UPIC International Co-operation in Criminal Matters**

01/12/2005 - 30/11/2008

*To strengthen the capacities of Ukraine to fully implement European treaties on co-operation in criminal matters*

**MOLI-UA II Ukraine - Project Against Money Laundering and Terrorist Financing**

01/05/2006 - 30/04/2009

*To contribute to the prevention and control of money laundering and terrorist financing in Ukraine in accordance with the European and other international standards and best practices*

**Ukraine-JU Ukraine - Improving independence of the Judiciary**

01/06/2006 - 31/12/2007

*To establish an independent, impartial and professional judiciary in Ukraine.*

*To support the selection procedure and disciplinary liability procedure.*

*To ensure that judges are equipped to perform their duties efficiently through initial and continuous training.*

*To enhance the professional capacity and efficiency of the judicial system within Ukraine*

**Ukr 5 Strengthening Democratic Stability in Ukraine**

01/12/2003 - 31/05/2006

*To improve the functioning of the Ukrainian criminal justice system, and greater freedom of expression through the application of European standards*

**MOLI-UA Project against Money Laundering in Ukraine**

01/01/2003 - 30/06/2005

*The project aims to contribute to the establishment of a fully functioning system to prevent the use of the financial system to launder the proceeds of serious crime and enable Ukrainian authorities to cooperate internationally in fighting money laundering in accordance with European and international standards*

**Ukr 4 Ukraine IV**

20/02/2002 - 19/08/2004

*To assist Ukraine to meet CoE Commitments, to build a tolerant, democratic, rule-of-law based society respecting social and human rights. To promote the fight against corruption and consolidate measures to prevent conflict*

## **EaP**

### **CoE EaP Facility Council of Europe Eastern Partnership Facility**

01/03/2011 - 31/08/2013

*To provide support to the reform processes in the EaP countries through a multilateral approach and to bring them closer to Council of Europe and EU standards in core areas covered by the Eastern Partnership Platform 1 “Democracy, good governance and stability*

### **Ill-treatment II Reinforcing the fight against ill-treatment and impunity**

01/07/2011 - 31/12/2013

*To develop national capacities for combating ill-treatment by law enforcement agencies and investigative institutions, including strengthening the effectiveness of investigations of allegations of ill-treatment*

### **Ill-treatment Combating ill-treatment and impunity in South Caucasus, Moldova and Ukraine**

01/01/2009 - 30/06/2011

*To develop national capacities for combating ill-treatment by law enforcement agencies and investigative institutions, including strengthening the effectiveness of investigations of allegations of ill-treatment*

### **EaP-CBP Eastern Partnership - corruption bridge project**

01/08/2010 - 30/11/2010

*To assess and improve national and regional capacities to prevent and combat corruption in EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine*

### **Civ-LEAD-NET Setting up and Developing the Civil Society Leadership Network**

01/01/2008 - 31/12/2009

*To strengthen civil society in Ukraine, Moldova and South Caucasus and involve it in solving political, social, cultural and other problems in their countries, and wider region*

### **PEER Project Setting up an active network of independent non-judicial Human Rights Structures in the Council of Europe member States which are not members of the European Union**

01/01/2008 - 31/12/2009

*To assist National Human Rights Structures (NHRS) in developing competencies concerning European human rights standards and practice and promote their joint initiatives aimed at networking, mutual exchange of information and sharing of best practices*

## **South Caucasus and Ukraine prior to EaP**

### **Ukr-SC-Dem Ukraine and South Caucasus States- Promoting the democratic process**

29/12/2005 - 28/04/2008

*The project aims to promote pluralist discourse on democratization and better access to fundamental rights in the South Caucasus & Ukraine. By nurturing the development of democratic institutions and free media in the South Caucasus and Ukraine in accordance with European standards, the project will encourage greater accountability of public officials, public participation in policy making, and the elaboration of policies that meet European standards*

### **SC-Ukr-HR Ukraine and South Caucasus-Fostering a culture of Human Rights**

05/12/2006 - 04/04/2009

*To enhance a European culture of Human Rights in the countries of the South Caucasus and Ukraine, in line with their aspirations to membership or closer ties with the European Union by enhancing education, training, monitoring and awareness of European Human Rights standards and by reinforcing the work of international human rights mechanisms inter alia through the promotion of the observance and implementation of the European Social Charter (revised). The objective will be achieved through expert support to national structures, NGOs and civil society within three broad areas of CoE competence: Human Rights training; Human Rights education and awareness-raising in European human rights standards*

### **Dem-Elec Democracy through free and fair elections**

01/12/2003 - 31/05/2006

*The project aims to analyze key aspects of European electoral law and to assist national authorities in improving the quality of electoral legislation and practice*