



## Governance Transfer by the Economic Community of West African States (ECOWAS)

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A B2 Case Study Report

Christof Hartmann



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## Foreword

Tanja A. Börzel and Vera van Hüllen

This working paper is part of a series of eight case study reports on governance transfer by regional organizations around the world. It was prepared in the framework of the SFB 700 project B2, “Exporting (Good) Governance: Regional Organizations and Areas of Limited Statehood”. Together with regional experts, we have investigated how and under which conditions regional organizations prescribe and promote standards for (legitimate) governance (institutions) at the national level. A comparison of major regional organizations shall enable us to evaluate to what extent we can observe the diffusion of a global governance script. Do regional organizations demand and promote similar criteria for “good governance” institutions, or do regional and local particularities prevail? The B2 case study reports present detailed findings for eight regional organizations in Africa, the Americas, Asia, and the Middle East. They cover the African Union (Julia Leininger), the Economic Community of West African States (Christof Hartmann), the Southern African Development Community (Anna van der Vleuten and Merran Hulse), the Organization of American States (Mathis Lohaus), Mercosur (Andrea Ribeiro Hoffmann), the North American Free Trade Agreement (Francesco Duina), the Association of Southeast Asian Nations (Anja Jetschke), and the League of Arab States (Vera van Hüllen).

The B2 case study reports rely on a common set of analytical categories for mapping the relevant actors, standards, and mechanisms in two dimensions of governance transfer.<sup>1</sup> First, we examine the prescription of standards and the policies for their promotion (objectives, instruments) that create the institutional framework for governance transfer. Second, we investigate the adoption and application of actual measures. Regarding the actors involved in governance transfer, we are interested in the role of regional actors on the one hand, as standard-setters and promoters, and domestic actors on the other, as addressees and targets of governance transfer. Even though the question of which criteria regional organizations establish for legitimate governance institutions is an empirical one, we relate the content and objectives of governance transfer to the broader concepts of human rights, democracy, the rule of law, and good governance. Finally, we classify different instruments of governance transfer according to their underlying mechanism of influence, distinguishing between (1) litigation and military force (coercion), (2) sanctions and rewards (incentives), (3) financial and technical assistance (capacity-building), and (4) fora for dialogue and exchange (persuasion and socialization).

The B2 case study reports result from more than two years of continuous cooperation on the topic, including three workshops in Berlin and joint panels at international conferences. The reports follow the same template: They provide background information on the regional organization, present the findings of a systematic mapping of governance transfer, and suggest an explanation for its specific content, form, and timing. They form the basis for a systematic

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<sup>1</sup> For detailed information on our analytical framework, please refer to our research guide for case study authors (Börzel et al. 2011).

comparison of governance transfer by these eight regional organizations (for first results, see Börzel, van Hüllen, Lohaus 2013), as well as further joint publications.

We would like to thank the people who have made this cooperation a pleasant and fruitful endeavor and one that we hope to continue: In particular, we would like to thank our regional experts, Francesco Duina, Christof Hartmann, Anja Jetschke, Julia Leininger, Mathis Lohaus, Andrea Ribeiro Hoffmann, Anna van der Vleuten and Merran Hulse for their willingness to share our interest in governance transfer and for their conceptual and empirical input into the project. We are also grateful to Heba Ahmed, Carina Breschke, Mathis Lohaus, Lea Spörcke, Sören Stapel, and Kai Striebinger for their valuable research assistance and other support to our joint B2 project. Special thanks go to Anne Hehn, Anna Jüschke, Clara Jütte, and the entire “Team Z” of the SFB 700, who have unfailingly smoothed the way in all matters concerning administration and publication. Finally, we gratefully acknowledge the financial support from the German Research Foundation (DFG), which made the project possible.

## **Governance Transfer by the Economic Community of West African States (ECOWAS).**

### **A B2 Case Study Report**

*Christof Hartmann*

#### **Abstract**

In the early 1990s, ECOWAS already committed its member states to standards of democracy and human rights. The organization developed its framework for governance transfer primarily through its 1999 and 2001 protocols in the wake of democratization processes in its member states. Overall standards are more developed in the fields of (liberal) democracy and human rights than in the rule of law and good governance. ECOWAS's instruments for protecting democracy and human rights are far-reaching, allowing for sanctions and military interventions under the so-called 'Mechanism.' By comparison, there are few instruments to actively promote governance standards beyond election observation missions. In practice, ECOWAS has generally reacted to political crises and security threats in its member states with a mixture of diplomatic interventions, fact-finding missions, and (the threat of) sanctions. These measures were mostly carried out by individual member states and only loosely linked to regional rules and procedures.

#### **Zusammenfassung**

Schon in den frühen 1990ern hat ECOWAS seine Mitgliedstaaten auf Standards in den Bereichen Demokratie und Menschenrechte verpflichtet. ECOWAS entwickelte seinen Rahmen für *Governance*-Transfer im Wesentlichen in den Protokollen von 1999 und 2001 vor dem Hintergrund von Demokratisierungsprozessen in seinen Mitgliedstaaten. Insgesamt sind Standards zu (liberaler) Demokratie und Menschenrechten stärker entwickelt als für Rechtstaatlichkeit und *Good Governance*. Die Instrumente zum Schutze von Demokratie und Menschenrechten sind weitreichend und erlauben Sanktionen und militärische Interventionen unter dem sogenannten ‚Mechanismus‘. Dagegen hat ECOWAS wenige Instrumente zur aktiven Förderung von *Governance*-Standards jenseits von Wahlbeobachtungsmissionen. In der Praxis hat ECOWAS meistens mit diplomatischen Interventionen, Untersuchungsmissionen und (der Androhung von) Sanktionen auf politische Krisen und Sicherheitsbedrohungen in seinen Mitgliedstaaten reagiert. Diese Maßnahmen wurden in der Regel von einzelnen Mitgliedstaaten ausgeführt und waren oft nur lose an regionale Regeln und Verfahren gebunden.

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## 1. Introduction

The Economic Community of West African States (ECOWAS) rightly features among the case studies in a research project comparing the transfer of governance standards from regional organization to member states. ECOWAS was the first African organization to formalize governance standards in its legal documents and to take far-reaching measures to defend these standards. In June 2011, James Victor Gbeho, President of the ECOWAS Commission, delivered a keynote speech at Chatham House in London about “Democracy in the Context of Regional Integration in West Africa,” highlighting ECOWAS’s strong commitment toward implementing democratic governance in the region. In recent years, ECOWAS has threatened to intervene by military force in member states to defend democratically elected governments. ECOWAS has also produced protocols that precisely define its governance standards.

At the same time, a serious analysis of ECOWAS’s role faces a number of challenges. The organization remains weak in terms of administration and lacks capacities to develop strategies and policies to actually implement and enforce standards in its member states. Many positions in the Commission have not been filled. Access to basic documents or essential data is very difficult. The website of the organization is hardly a useful way to access updated information. Some core decisions are never published in the Official Journal of ECOWAS. Moreover, there is an immense lack of empirical research about ECOWAS. A handful of useful studies have largely concentrated on the peacekeeping missions and the logistical and legal problems related to these operations. There is no information on the closed-door negotiations among the heads of state and no memoirs by retired Presidents. Few local researchers have access to policy makers. While many journalists in Burkina Faso, Ghana, or Togo have strong views about ECOWAS interventions, there has been little systematic documentation of these perspectives. There is no cumulative wisdom that a comprehensive study of governance transfer in ECOWAS can build on.

This paper will start with a short introduction to the regional organization, followed by two main sections dealing with the development of governance standards and policies, followed by their actual application. The paper ends with a tentative analysis of the main reasons for the uneven overall picture of ECOWAS as a strong developer and weak implementer of governance standards.

## 2. The Economic Community of West African States (ECOWAS): An Overview

The Economic Community of West African States (ECOWAS, in French: CEDEAO) was created in 1975 as a primarily economic international organization of fifteen states in West Africa. Political independence had been obtained in most states between 1956 and 1961, except for the Gambia (1965) and the Portuguese colonies of Cape Verde and Guinea-Bissau, which only became independent in 1975 following the Portuguese Revolution.

During the first decade of independence, political and economic developments in the region were marked by a strong rivalry between former French and former British colonies. These

were caused by the hegemony of by far the biggest state in the region, Nigeria, which the Francophone states found difficult to accept. Rivalries also arose from the different trajectories in economic policy (socialist versus capitalist) and strongly differing conceptions concerning ties with the former colonial powers. While Ghana (and to a lesser degree Nigeria) had opted for a relatively strict break from Britain, the Francophone states (with the exception of Guinea) maintained close relationships with France, inter alia by signing cooperation agreements in the military, political, and economic spheres. When the first military coups occurred, and even more so over the course of the Nigerian-Biafran Civil War, West African governments accused neighboring states of allying with rebels or insurgents.

When the UN Commission for Economic Cooperation in Africa (UNECA) in 1965 advocated the idea of a stronger economic union between the West African countries to overcome the growing problems of many West African economies (some landlocked) with small markets, the diplomatic context was not favorable. France had already created economic and monetary organizations that linked Francophone West African countries to France, creating a monetary zone (Franc-CFA) and privileging trade relationships with the former colonial power. Negotiations thus stalled over several years. Two major changes in the regional context were then instrumental in allowing the West African states to move closer together. Nigeria's rise as an oil producer made closer cooperation with Nigeria more attractive in general, even for the Francophone states, and negotiations with the European Community over a trade and aid agreement that ended with the Lomé Treaty of 1975 forced the West African countries to build a common strategy in these negotiations.

It was in this context that the previously stalled negotiations over the creation of a regional cooperation scheme concluded, and on 27 May 1975 the ECOWAS Treaty was signed in the Nigerian capital, Lagos. ECOWAS was thus created because of the prospects for better access to Nigerian resources and a better bargaining position that ECOWAS offered to economically marginalized states in the international arena. Nigeria could hardly benefit from economic cooperation with its smaller neighbors but saw ECOWAS as a useful framework to project its power and secure its hegemony against French influence. ECOWAS did not emerge because regional leaders wanted to create a common market and eliminate trade obstacles nor because they desired a forum to solve political conflicts or manage security threats. Despite (or actually because of) the significant domestic turbulence in most member states, there was certainly no explicit treaty provision or implicit intention to develop standards and policies for the transfer of governance to member states. Democratic regimes and standards of good governance were actually absent from the region when ECOWAS came into being. In 1975, there was not a single democratic regime among the fifteen member states. In 1978, ECOWAS members did sign a protocol of non-aggression and thus expanded their cooperation to include security matters (ECOWAS 1978). The applicability of the protocol was, however, strictly limited to international aggression and conflicts.

The 1975 Lagos Treaty remained the official framework for ECOWAS activities throughout the 1970s and 1980s (ECOWAS 1975). Geopolitical changes in the West African region beginning in



the early 1990s involved ECOWAS and its member states in the management of violent conflicts within the member states and led to a revision of the ECOWAS treaty. The Cotonou Treaty of 1993 introduced new mechanisms, especially with regard to peace and security issues, and strengthened various ECOWAS institutions. Based on this treaty, a number of additional protocols have been agreed to and eventually ratified that have a more direct relationship with governance and democracy issues.

Although “West Africa” is not an obvious geographic entity but rather a historical colonial creation, there is a broad consensus that ECOWAS brings together all “West African” states today and that the organization’s membership is saturated (see figure 1). The possibility of “other West African states” joining ECOWAS was not excluded in the 1975 treaty, and this would potentially allow for the accession of Cameroon, Chad, or Gabon. However, these three Francophone states later became members of various regional arrangements in Central Africa, and the issue of their accession to ECOWAS has never been seriously raised.

Mauritania, located at the border between the Maghreb and Sub-Saharan Africa, left ECOWAS at the end of 1999 (in order to become more strongly involved in the Arab League and the Maghreb Union) and could be considered the only “contested” additional member state of a West African regional organization. In 1975, all independent states of West Africa (Benin, Burkina Faso, Côte d’Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo) became members of ECOWAS without any conditions attached. Cape Verde joined in 1977. ECOWAS thus never conducted a debate about criteria that member states should meet prior to acceding to the organization.

**Figure 1: Member States of ECOWAS**



The bigger challenge in terms of ECOWAS membership is the formation of blocs within ECOWAS that have become formalized in separate regional organizations and arrangements with separate agendas (although interestingly without a governance mandate). For example, the seven Francophone states (plus Guinea Bissau), organized in the UEMOA (Union Economique et Monétaire Ouest Africaine) since 1994, have remained relatively closely linked to France via a monetary union (Zone CFA) and to each other. The elites of the fifteen ECOWAS countries do not have a single common language of communication, and over the last 35 years, ECOWAS has not found a good solution for this dilemma: On the one hand, there is a numerical majority of Francophone states that have embarked on a more serious strategy of economic integration; on the other hand, these states cannot become a “locomotive” of economic integration in ECOWAS because the biggest economy remains excluded from this stronger form of integration. The Anglophone and Lusophone states do not share among themselves the same degree of unity, coherence, and common socialization, which hinders them from developing a common strategy within ECOWAS. Until the accession of the DR Congo and Madagascar to the Southern African Development Community (SADC) in the 1990s, ECOWAS was the only regional organization in Africa with both Anglophone and Francophone member states.

The general objective of ECOWAS (as stated in Article 2 of the 1975 Lagos Treaty) has been

“to promote co-operation and development in all fields of economic activity ... for the purpose of raising the standard of living of its peoples, of increasing and maintaining economic stability, of fostering closer relations among its members and of contributing to the progress and development of the African continent.”

Member states accordingly agreed to liberalize their external trade policies by eliminating trade barriers; to harmonize economic, industrial and monetary policies; and to establish a Fund for Co-operation, Compensation and Development to finance regional infrastructure.

The institutional structure provided by the 1975 treaty retained an entirely intergovernmental character. The only important organs were the Authority of Heads of State and Government and the Council of Ministers, which came together once and twice a year, respectively, and took decisions by consensus. They were supported by a small Executive Secretariat, and if needed, by specialized commissions. Finally, the Lagos Treaty established a Tribunal of ECOWAS, which would “ensure the observance of law and justice in the interpretation of the provisions of this Treaty” (Article 11 Lagos Treaty) and have the authority to settle disputes among member states regarding the interpretation or application of the Treaty.

The economic agenda of ECOWAS faced many obstacles. Member states never seriously considered harmonizing their policies (save for the successful harmonization of macro-economic and monetary policies among the Franc-CFA states), and the establishment of free-trade areas and a customs union was planned and rescheduled again and again. Intra-regional trade remained consistently below 10% (for details cf. Cernicky 2008). The private economic sector in ECOWAS countries was simply too weak to pressure governments to remove trade barriers or to benefit

from heavy protectionist measures. Governments also relied strongly on income from taxes and duties and were thus reluctant to lower tariffs. The biggest success of the economic agenda was the protocol on the free circulation of persons and the introduction of an ECOWAS passport, which came into force in 1985.

The Revised Treaty partly reaffirmed the original commitments and objectives but made some significant modifications to the rationale and institutional structure of ECOWAS (ECOWAS 1993). Among the main aims of the Community (Article 3 Cotonou Treaty) was now the promotion of not only “co-operation” but also “integration”, leading “to the establishment of an economic union in West Africa” and aiming to “foster relations among member states”. The new treaty also inserted an additional Article 4 concerning “fundamental principles” that include equality and inter-dependence among the member states, solidarity, harmonization of policies, non-aggression between member states, maintenance of regional peace and stability, peaceful settlement of disputes, recognition, and promotion of human and people’s rights, accountability, economic and social justice, popular participation in development, and “promotion and consolidation of a democratic system of governance in each member State as envisaged by the Declaration of Political Principles adopted in Abuja on 6 July 1991.” It should be noted that the treaty does not mention the pre-existence of a democratic system of governance (as a requirement), but rather the promotion and consolidation of a democratic system of governance. The “promotion” is of course possible even where such a system does not exist.

The Revised Treaty also introduced a Community Parliament (although it declined to specify that body’s authorities), renamed the Tribunal as the Court of Justice of the Community, and slightly strengthened the Executive Secretariat including the post of the Executive Secretary (which was later transformed into an ECOWAS Commission with a President). Article 9 of the Revised Treaty also allowed the heads of state to adopt decisions “depending on the subject matter under consideration by unanimity, consensus or, by a two-thirds majority of the Member States.” Over the years, additional protocols introduced new bodies and procedures. An entire, separate, institutional mechanism was thus introduced with the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (ECOWAS 1999). This protocol established a Mediation and Security Council (MSC), which is composed of representatives from nine out of fifteen member states and acts on behalf of the Authority of Heads of State. The MSC is supposed to implement the protocol, including wide-reaching mechanisms to authorize military interventions and diplomatic missions (see below), which are binding for all member-states (even those not represented in the MSC).

ECOWAS has also faced considerable challenges in terms of the financial sustainability of projects, programs, and capacities, especially in the Secretariat. Budget data as published by ECOWAS itself are not very reliable. For many years, the majority of member states simply did not pay the membership fees. This financing mechanism was eventually complemented by an automatic levy on import taxes into ECOWAS during the 1990s. This also allowed ECOWAS to gain more autonomy from member states. Finally, the international community is heavily involved in the financing of projects – to the extent that one observer (Bach 2004: 74) called

ECOWAS a multi-sectoral development agency primarily involved in mobilizing external resources for regional infrastructure projects.

### 3. Mapping Governance Transfer by ECOWAS

#### 3.1 The Framework of Governance Transfer: Prescription and Policy

Over the last two decades, ECOWAS has been quite active in developing documents dealing with governance issues in its member states. Our analysis will present six partly overlapping documents of differing legal character that define ECOWAS standards and policies for governance transfer: With the Declaration of Political Principles (ECOWAS 1991), governance issues were raised for the first time. The Cotonou Treaty (ECOWAS 1993, Revised ECOWAS Treaty) and the three protocols on the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security (ECOWAS 1999), Democracy and Good Governance (ECOWAS 2001-a), and the Fight Against Corruption (ECOWAS 2001-b) establish the legally binding framework for governance transfer. The ECOWAS Conflict Prevention Framework (ECOWAS 2008-a) represents an attempt by the ECOWAS Commission to at once reaffirm these existing standards, combine them in a single document, and develop them into a more operationalized policy framework. We will start our analysis with the first ECOWAS Protocol on Free Movement, which, on a superficial level, could also be seen as dealing with governance transfer (ECOWAS 1979).<sup>1</sup>

**Figure 2: The Framework of Governance Transfer by ECOWAS<sup>2</sup>**

Year	Title	Human Rights	Democracy	Rule of Law	Good Governance
1975	Treaty of ECOWAS (Lagos)				
1979	Protocol Relating to Free Movement	(X)			
1991	Declaration of Political Principles	X	X		
1993	Revised Treaty of ECOWAS (Cotonou)	X	X		
1999	Protocol Relating to the Mechanism for Conflict Prevention	X	X	X	X
2001	Protocol on Democracy and Good Governance	X	X	X	X
2001	Protocol on the Fight against Corruption			X	X
2008	ECOWAS Conflict Prevention Framework	X	X	X	X

<sup>1</sup> According to a press statement by the ECOWAS Commission from 12 June 2012, of the 53 protocols and conventions adopted since the establishment of ECOWAS in 1975, 38 had entered into force by 30 April 2012 while 15 still awaited ratification.

<sup>2</sup> Source: Own compilation.

### 3.1.1 Protocol Relating to Free Movement of Persons, Residence and Establishment (1979)

If one asked ordinary ECOWAS citizens which ECOWAS policy has mattered most in their lives, they would probably answer by naming the 1979 Protocol Relating to Free Movement of Persons, Residence and Establishment (ECOWAS 1979).<sup>3</sup> Since the main rationale behind the formation of ECOWAS was economic cooperation, this protocol represented a major step in the process of allowing for the unobstructed circulation of persons as a major factor of production. It also introduced a common ECOWAS passport. While the implementation of the provisions faced many challenges, for example the expulsion of thousands of West Africans from Nigeria during the 1980s, the protocol established individual rights that member states could not simply abolish.

The protocol cannot, however, easily be subsumed under the logic of governance transfer, as it did not address the relationship between a state and its own citizens—that is, the right to free movement within a national territory—and certainly had no intention of prescribing standards on the conferral of citizenship rights within member states. Two supplementary protocols regulated the subsequent phases in more detail: the establishment of the Right of Residence (ECOWAS 1986) and the Right of Establishment (ECOWAS 1990), but again did not prescribe economic rights for ECOWAS citizens. Member states simply promised according to a conventional logic of trade liberalization not to favor national persons and companies over those of other member states. The protocols also include numerous provisions allowing member states not to apply the rules due to the exigencies of public order, security, or public health (Nwauche 2011). In terms of policy, the three protocols ask member states to take all legislative and other measures necessary for their implementation. It should be noted, however, that the immigration admissions laws in ECOWAS member states have supremacy over the ECOWAS protocols; the ECOWAS protocols thus invite

“national provisions more restrictive than and perhaps antipathetic to the non-discrimination, regional social cohesion and promotion and protection of human and peoples’ rights objectives at the heart of ECOWAS initiative” (Adepoju, Boulton, Levin 2007: 8).

### 3.1.2 Declaration of Political Principles (1991)

During their annual meeting in Abuja, ECOWAS heads of state and government adopted a “Declaration of Political Principles” on 6 July 1991 (ECOWAS 1991-a). A Declaration has no legally binding character and therefore does not require ratification by member states. It was the first time that ECOWAS member states agreed to respecting human rights and promoting democratic systems of government.

<sup>3</sup> The protocol entered into force on 5 June 1980. A clause on the free movement of persons was already included in the 1975 Treaty (Article 27) and eventually taken up again in Article 59 (Revised Treaty).

The declaration is brief and includes eight principles. The three first and arguably most important political principles concern the peaceful settlement of violent conflicts among member states. Human rights are addressed next. Member states declare that they

“will respect human rights and fundamental freedoms in all their plentitude, including in particular freedom of thought, conscience, association, religion or belief for all our peoples” (principle 4).

Principle 5 introduces the additional agreement

“to promote and encourage the full enjoyment by all our peoples of their fundamental human rights, especially their political, economic, social, cultural and other rights” (principle 5).

The preamble also makes reference to the African Charter on Human and Peoples’ Rights and “universally recognized international instruments on human rights.”

The sixth principle deals with democracy. Its rather opaque formulation is quoted here in its entirety:

“We believe in the liberty of the individual by means of free and democratic processes in the framing of the society in which he lives. We will therefore strive to encourage and promote in each our countries, political pluralism and those representative institutions and guarantees for personal safety and freedom under the law that are our common heritage.”

This document raises several interesting points. The concept of democracy is kept quite vague, although it appears to include both the free political participation of individuals and some political competition with representative institutions elected by citizens from among different political parties. However, the text does not specifically mention elections or other institutional devices (separation of power), nor does it specify which political offices should be filled via “free and democratic processes.” The objective is not a democratic regime or process but rather multiple “free and democratic processes in the framing of the society.” The final section of Principle 6 indicates that the idea of representation indeed remains constrained by “common heritage”. Since the election of a President, for example, does not necessarily belong to the “common heritage,” it might not be part of “those representative institutions” that the heads of state were willing to promote.

The “political principles” were signed while the vast majority of member states violated most of the very same principles, but the sub-region was overcome by a general enthusiasm toward democratic renewal. The heads of state rather agree “to strive to encourage and promote” democratic processes in each of their countries than to set a precise standard (Principle 6). The

formulation is quite bizarre considering that in most countries, long-serving and unelected presidents were the main obstacle to democratization; in the declaration, the heads of state actually encourage themselves to hand over their own power to the ballot. The heads of state are therefore not simply promoting political pluralism, but are actually “striving to encourage and promote” democracy.

It would therefore be difficult to conclude that the declaration prescribes a standard of governance, whether in terms of democracy or human rights. Heads of state from ECOWAS member states publicly declare their commitment to some general principles (as the title says). ECOWAS organs have no role in this declaration of principles, and no specific ECOWAS policies can be developed accordingly. In the framework of a summit, heads of state are to declare what they want to realize in their own countries. The main intent is to strengthen the fragile processes of political liberalization and democratization in some member countries while at the same time not exerting undue pressure upon the others through operationalized criteria. In 1991, there appeared to be no majority of ECOWAS heads of state who envisioned a role for ECOWAS in the active promotion of governance reforms within the member states.

### **3.1.3 The Revised ECOWAS Treaty (1993)**

The Revised ECOWAS Treaty was signed by the heads of state and government two years after the Declaration on 24 July 1993 in Cotonou (ECOWAS 1993).<sup>4</sup> Compared to the original Lagos Treaty, it is a thoroughly revised document both at the level of institutional set-up and with regard to objectives and authorities.

Significantly, among the many aims and objectives stated in the Revised ECOWAS Treaty (Article 3), there is a total failure to mention human rights, democracy, and good governance. Notwithstanding the 1991 Declaration, ECOWAS in 1993 did not perceive itself as an organization that should actively transfer governance to member states.

At the same time, the new Article 4 lists the “recognition, promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights” (g), “accountability, economic and social justice and popular participation in development” (h), and “promotion and consolidation of a democratic system of governance in each Member State as envisaged by the Declaration of Political Principles” (j) as fundamental principles, which “the high contracting parties solemnly affirm” but which seem to have little relevance to the activities of ECOWAS. The concept of “accountability, economic and social justice” did not appear in the 1991 Declaration of Political Principles, but the lengthy treaty declines to elaborate on what is actually meant and who should be held accountable with regard to what.

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<sup>4</sup> It entered into force after ratification on 23 August 1995.

The bulk of the revised treaty deals with the various policies that ECOWAS is involved with, and consequently there is very little mention of good governance, human rights, or democracy. Article 56 (Political Affairs) mentions governance issues but simply reaffirms that the signatory states of various protocols and the Community Declaration of Political Principles “agree to cooperate for the purpose of realizing the objectives of these instruments.”

Human rights are taken up in Article 66 (The Press): ECOWAS Member states commit themselves “to ensure respect for the rights of journalists” and “to maintain freedom of access for professionals of the communication industry”. The overall commitment to human rights in Article 4 of the Cotonou Treaty remains less precise than the words and spirit of the 1991 Declaration.

The basic treaty of a regional organization is not a likely place to develop specific policies about the promotion of governance standards, especially if these standards are kept exceptionally vague. The most important contributions of the Cotonou Treaty are procedural innovations that are not specific to the transfer of governance but that nevertheless strengthen the Community vis-à-vis the member states and thus lay the groundwork for enforcing community standards. Article 15, for example, establishes a Court of Justice of the Community whose attributes are fixed in an additional protocol (ECOWAS 1991-b).

The Revised Treaty also allows the Authority of Heads of State to impose sanctions if a “Member State fails to fulfill its obligations to the Community” (Article 77-1). The Treaty establishes a spectrum of sanctions ranging from the suspension of new Community loans to the suspension of voting rights and participation in the activities of the Community. The Authority shall also “decide on the modalities for the application of this article” (Article 77-4). It would be unreasonable to assume that the wording of the Cotonou Treaty makes the practice of democracy or good governance an “obligation” in the sense of Article 77. At the same time, the treaty gives the heads of state (as a group) significant discretion in deciding on the modalities that might include the definition of “obligations” in the first place.

Given the treaty’s scarce attention to the conceptualization of democracy, it comes as a surprise that the document does empower ECOWAS (although without naming the exact organ) to “provide, where necessary and at the request of Member States, assistance to Member States for the observation of democratic elections” (Article 58-g). The provision does not specify to whom exactly this assistance should go. One can assume that the governments of member states should be the main beneficiaries of this assistance, although observation is more likely the task of non-governmental actors. Finally, the provision is “hidden” in an article that deals with regional security and underlines the need “to establish a regional peace and security observation system and peace-keeping forces where appropriate” (Article 58-f). This already indicates that elections are not seen as a governance standard but rather as part of a toolbox of conflict management.



### 3.1.4 Protocol Relating to the Mechanism for Conflict Prevention (1999)

ECOWAS's entry point into the security discourse of the region was its role in conflict management in Liberia (since 1990) and Sierra Leone (since 1997). The Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security (ECOWAS 1999), adopted on 10 December 1999,<sup>5</sup> was the institutional answer to this growing involvement of a formerly regional economic organization in security issues. The Mechanism moved ECOWAS from its earlier ad hoc approach to collective security into a coherent and institutionalized framework for security cooperation in the sub-region (Abass 2000). The Revised ECOWAS Treaty of 1993 had in fact included Article 58, which addressed regional security and already formulated the need to build a more comprehensive regional framework and lay it down in a protocol.

Despite its clear focus on conflict management, the 1999 document refers to several dimensions of governance. However, the protocol essentially repeats the same vague formulations that ECOWAS had already used in its previous legal documents. The protocol begins with a list of principles (Article 2) including a commitment by member states to promote and consolidate “democratic government as well as democratic institutions in each Member State” and to protect “fundamental human rights and freedoms and the rules of international law”. Among the 12 objectives of the Mechanism are not only the prevention, management, and resolution of internal and inter-state conflicts, but also the protection of the environment and the commitment to safeguarding the cultural heritage of member states. What still lacks is the objective to use this Mechanism to strengthen the democratic process, the rule of law, or respect for human rights. This is quite surprising since the protocol stipulates explicitly in Article 25 that the Mechanism might be applied “in the event of serious and massive violation of human rights and the rule of law” or “in the event of an overthrow or attempted overthrow of a democratically elected government.”

Standards of good governance are more clearly formulated here than in previous documents. The Mechanism should thus be instrumental in formulating and implementing anti-corruption policies (Article 3-1) and setting up an appropriate framework for the rational and equitable management of natural resources shared by neighboring member states.

Despite being vague regarding the standards themselves, the protocol contains several policies to promote them. This derives from the fact that the document is mainly concerned with the ways and means for ECOWAS to intervene in member states in order to mitigate conflicts.

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<sup>5</sup> It entered into force provisionally upon signature. The institutions created by the protocol such as the Mediation and Security Council became effective directly afterward; by the end of 2010, however, nine member states had still not carried out the necessary ratification.

Article 25 was already mentioned above: It states that the newly created Mediation and Security Council can decide on political and military interventions in member states in the “event of serious and massive violation of human rights and the rule of law” or if there is “an overthrow or attempted overthrow of a democratically elected government.” The protocol not only allows for a military intervention into member states for the first time (as decided by a new organ in which only nine out of 15 member states are represented), but it also explicitly orders this course of action in cases of severe governance problems.

We might expect this level of attachment to democracy and human rights to be matched by a more fine-grained, comprehensive strategy to promote these governance standards in the member states. Yet the protocol is, once again, relatively silent on such policies.

Under the heading “Peace-Building,” and in order to

“stem social and political upheavals, ECOWAS shall be involved in the preparation, organization and supervision of elections in Member States. ECOWAS shall also monitor and actively support the development of democratic institutions in Member States” (Article 42-1).

This is quite a general mandate, but the article neither specifies which ECOWAS organ should be active in carrying it out nor which democratic institutions in the member states should be developed in particular. According to Article 45 on the Restoration of Political Authority, “in cases where the authority of government is absent or has been seriously eroded,” ECOWAS shall be active in supporting “electoral processes, with the cooperation of relevant regional and international organizations,” and support “the respect for human rights and the enhancement of the rule of law and the judiciary”. Finally, Article 48 asks ECOWAS and its member states in very general terms to “promote transparency, accountability and good governance” with the aim “to eradicate corruption within their territories and in the sub-region”.

The protocol thus marks a significant step in the evolution of governance transfer within ECOWAS. While the protocol still lacks a proper conceptualization of the core concepts, it provides instruments for the first time to actually promote standards of governance within its member states. Given the rationale of the protocol, however, the application of these instruments is connected to the clauses that may trigger an intervention in the first place.

### **3.1.5 Protocol on Democracy and Good Governance (2001)**

The importance of democratic rule, the rule of law, and good governance within the organization increased with the Protocol on Democracy and Good Governance (ECOWAS 2001-a), which formally established explicit standards for member states: rule of law with autonomy for parliament and the judiciary, free and fair elections and political participation, civilian supremacy over military forces, and civil liberties. ECOWAS also committed itself to “zero tolerance for power obtained or maintained by unconstitutional means” (Article 1c). Noting the ineffective-

ness of the 1999 Protocol due to the lack of appropriate provisions on democracy and good governance, the rule of law, and human rights (see above), ECOWAS heads of state adopted this supplementary protocol on 21 December 2001, which entered into force after the ninth ratification in February 2008.

For the first time in ECOWAS history, a legal document prescribes governance standards in an explicit way, and it does so in all relevant governance dimensions. Article 1 of the protocol starts by stating that “the following shall be declared as constitutional principles shared by all Member States” and gives a list of 12 constitutional convergence principles that are subsequently elaborated in the remainder of the protocol.

Democracy is dealt with most prominently in the document. The constitutional principles in Article 1 include commitments to strengthen parliaments and guarantee “popular participation in decision-making” (Articles 1-a and d). Together with a provision that allows political parties (including opposition parties) “to carry out their activities freely” and to “participate freely and without hindrance in any electoral process” (Article 1-i), these statements refer to the democratic norms of participation and representation. Additionally, Paragraphs b and c state that “every accession to power must be made through free, fair and transparent elections”, reflecting the principle of “zero tolerance for power obtained or maintained by unconstitutional means”.

These rules make clear that, in contrast to the 1991 Declaration of Principles, this protocol contains a commitment to a representative form of democracy that includes competitive presidential elections. The drafters of the protocol also have a clear understanding of the biggest threat to democracy: it is less the unlimited tenure of dictators than the khaki uniforms leaving their barracks in order to stage a *coups d'état*. One constitutional principle (Principle 1-e) is fairly precise in requiring that

“the armed forces must be apolitical and must be under the command of a legally constituted political authority; no serving member of the armed forces may seek to run for elective political office.”

Regarding the norm of free and fair elections, Articles 2 to 10 contain a number of rules and procedures. Among the most well known in West Africa is the provision that “no substantial modification shall be made to the electoral laws in the last six months before the elections, except with the consent of a majority of political actors” (Article 2). The protocol also requires member states to have an independent and neutral electoral body (Article 3), although one wonders what exactly this means. Other provisions address different aspects of electoral management such as voters’ lists or petitions. Article 9 requires parties or candidates who lose the elections “to concede defeat to the political party and/or candidate finally declared the winner”. The concept of human rights also plays an important role in the protocol. The initial “principles” refer to the norm of non-discrimination as well as the necessity of each individual to have recourse to courts “to ensure the protection of his/her rights”, which could be seen as an instance of the universality norm (Article 1-h). Among the core constitutional principles, one

also finds the “freedom of association” (Article 1-j) and the “freedom of the press” (Article 1-k). Human rights issues are taken up less systematically in the remainder of the protocol, but gender equality (Article 30-5), and children’s rights (Article 41) are mentioned. Article 35 requires member states to establish independent national institutions to promote and protect human rights.

With respect to the rule of law, the “constitutional principles” contain a commitment to the separation of powers and the independence of the judiciary (Article 1-a). The document also states that the rule of law requires “a good judicial system, a good system of administration, and good management of the State apparatus”, thus linking it with good governance (Article 33). Good governance itself is somehow missing from the list of constitutional principles (Article 1-d mentions decentralization of power at all levels of governance as a core principle to be realized in all member states), but it is possible to assume that the drafters of the protocol adopted a broader understanding of the concepts than we apply here, and thus subsume the rule of law and human rights under the umbrella concept of good governance. Section VII of the protocol deals with the “Rule of Law, Human Rights and Good Governance” without properly distinguishing among these concepts. The section starts with a general statement that good governance is considered “essential for preserving social justice, preventing conflict, guaranteeing political stability and peace and for strengthening democracy” (Article 32). Article 34 of the protocol asks member states to “ensure accountability, professionalism, transparency, and expertise in the public and private sectors”. Moreover, member states are to “fight corruption and manage their national resources in a transparent manner” (Article 38).

The protocol does not develop a systematic strategy to promote the enforcement of the constitutional principles listed in Article 1. Although the section title “Constitutional Convergence Principles” shows that the heads of state clearly realized there was still a long way toward implementing some of these principles in some cases, the text of the article formulates these standards as norms “which are shared by all Member States” (Article 1). The selection of governance issues discussed more or less intensively in the remaining sections has no clear relationship to the constitutional principles. There is a relatively detailed elaboration of electoral issues, including electoral observation, and of the army’s role in the political process, but the text pays little attention to human rights and rule of law.

In contrast to the 1991 Declaration and the Revised Treaty, however, the drafters of this protocol did think about how to develop policies to enforce and promote governance standards and rules. These policies remain quite embryonic given the task at hand, but there is certainly a commitment by member states and especially the ECOWAS Executive Secretariat to adopt “practical modalities” to further good governance along with the rule of law, human rights, and justice (Article 34). Article 38 asserts that member states and the Executive Secretariat will jointly develop mechanisms against corruption. The ECOWAS Executive Secretariat is also meant to strengthen the capacities of “independent national institutions to promote and protect human rights” (Article 35), organizing them into a regional network that may then prepare reports on violations: “Such reports and reactions of governments shall be widely disseminated” (Article 35).

With regard to human rights and the rule of law, Article 39 states that the ECOWAS Community Court of Justice, which was created to settle conflicts among member states over the interpretation of the ECOWAS Treaty, shall have the power to hear human rights cases “after all attempts to resolve the matter at the national level have failed”. If there is no national court competent to deal with human rights issues in the first place, “the present Supplementary Protocol shall be regarded as giving the necessary powers to common or civil law judicial bodies” (Article 1-h). This is the protocol’s major institutional innovation.

In order to promote democratic standards, the protocol describes a number of policies. First of all, ECOWAS may provide electoral assistance “of any form” if a member state wishes it to do so (Article 12). The same article also allows ECOWAS to dispatch a monitoring team to the country concerned for the purpose of monitoring the elections. Since the invitation of the member state is not explicitly mentioned here, it has been argued that ECOWAS might send such monitoring teams even without the consent of the respective state (Gandois 2009: 149). The Executive Secretary might also dispatch a fact-finding or exploratory mission to member countries where an election is approaching (Article 13). The protocol contains detailed statements on how these missions are to be staffed, what their mandate should be, and to whom they should report. To prepare for the “Observer/Supervisory Mission”, a preliminary delegation shall collect data by gathering relevant documents and talking to “candidates, political party leaders, government authorities and other competent bodies” (Article 13). The “Observer/Supervisory Mission” shall then arrive immediately before the election starts, observing the electoral process and preparing a report to the Executive Secretary (which can forward it to other ECOWAS bodies; Article 18). The report should contain witnesses’ own observations and statements, as well as an assessment of the procedure with regard to national law and “the universal principles in electoral matters”, followed by recommendations for improvement (Article 16). Many observers from the region still feel that these rules and procedures are not sufficiently specific; the protocol develops no specific norms and standards to serve as a checklist for observers.<sup>6</sup>

In contrast to these positive measures, Article 45 presents negative incentives, particularly sanctions, taking up the formulations from the 1999 Protocol:

“In the event that democracy is abruptly brought to an end by any means or where there is massive violation of Human Rights in a Member State, ECOWAS may impose sanctions on the State concerned” (Article 45).

The list of sanctions originally developed in the 1993 Revised Treaty is slightly modified here and can range from the refusal to accept candidates for ECOWAS bodies or to organize meetings in a country, to the suspension of decision-making rights. A more controversial question is whether the protocol also allows for military intervention, although this is not explicitly mentioned in Article 45. But since we have to consider this protocol as complementary to the 1999 protocol, the wide-ranging authority of the Mediation and Security Council to intervene in

<sup>6</sup> This has been done in the SADC, for example, where the regional organization has developed very specific guidelines of this kind.

political crisis apply here as well. The decision-making procedure is laid out in the earlier document: The Mediation and Security Council may authorize all forms of intervention and decide particularly on the deployment of political and military missions. Decisions by the Mediation and Security Council are taken through a two-thirds majority vote of the members present (the quorum being six out of nine members).<sup>7</sup>

### 3.1.6 Protocol on the Fight Against Corruption (2001)

On 21 December 2001, the ECOWAS heads of state adopted another protocol, which deals with the fight against corruption (ECOWAS 2001-b) and which is not directly related to the Mechanism for Conflict Prevention.<sup>8</sup> The corruption issue had been addressed, but much less extensively, in the 1999 Protocol establishing the Mechanism for Conflict Prevention. The new protocol has the specific objective of strengthening effective mechanisms to prevent, suppress, and eradicate corruption in member states.

The protocol is concerned with one main area of good governance, namely anti-corruption policies. In Article 6, the protocol provides a relatively comprehensive definition of corruption that includes the behavior of both corrupt public officials and those who try to corrupt a public official, whether national or foreign. All member states are required to introduce appropriate legislation to criminalize the acts of corruption enumerated in this protocol. A significant increase in a public official's assets that he cannot reasonably explain is also considered an act of corruption here. Further articles deal with laundering the proceeds of corruption, protecting witnesses, and the necessity to introduce effective proportionate and dissuasive sanctions and measures with respect to the criminal offences established in the protocol. Member states also agree to consider corruption a crime leading to extradition and to provide mutual legal assistance to persecute such crimes. Overall, the protocol offers a comprehensive set of detailed rules that member states should comply to, that is, transfer into national legislation. With regard to these processes, Article 16 requires each of the member states to designate a Central Authority responsible for formulating and receiving requests for cooperation and assistance set out in this protocol.

The main task emerging from this protocol is the establishment of an Anti-Corruption Commission at the ECOWAS level (Article 19). This commission should monitor the protocol's implementation at a national and sub-regional level, gather and disseminate information among member states, regularly organize relevant training programs, and provide ECOWAS states with appropriate additional assistance. It will consist of experts from the member states' ministries of finance, justice, internal affairs, and security (who are then promoter and target at the same time) and report to the Council of Ministers.

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<sup>7</sup> In reality, and despite the text of the protocol, the foreign ministers of all member states have been participating and voting in the MSC, with the exception of the member states suspended from ECOWAS decision-making processes.

<sup>8</sup> This protocol had been ratified by only one member state by the end of 2011 (OECD/African Development Bank 2012, 28).

### 3.1.7 ECOWAS Conflict Prevention Framework (2008)

In 2008, the Mediation and Security Council reframed ECOWAS's political and conflict-related activities under the heading of the ECOWAS Conflict Prevention Framework (ECPF) (ECOWAS 2008-a). The ECPF distinguishes 14 components of conflict prevention, prominently focusing on democracy, political governance, protection of human rights, and rule of law. The ECPF was adopted by the Mediation and Security Council (MSC) on 16 January 2008. As a regulation, the ECPF does not need to be ratified by member states (Article 9 Revised Treaty and Article 10 Protocol Mechanism) but is, in principle, legally binding for the member states.

The ECPF essentially summarizes existing ECOWAS standards for legitimate governance institutions in all possible fields. More innovative is the attempt to develop a set of comprehensive policies for governance transfer. After an introduction, the document specifies 14 “components” in Section VIII, spanning 47 pages and formulated into 59 points with about a dozen sub-paragraphs each. These different components and activities are of varying relevance to the question of governance transfer. Most components do not directly refer to governance issues, such as (1) Early Warning, (2) Preventive Diplomacy, (7) Cross-Border Initiatives, (8) Security Governance, (9) Practical Disarmament, (10) Women, Peace and Security, (11) Youth Empowerment, (12) ECOWAS Standby Force, (13) Humanitarian Assistance, and (14) Peace Education. The components (3) Democracy and Political Governance, (4) Human Rights and the Rule of Law, (5) Media, and (6) Natural Resource Governance, in contrast, directly address governance issues in the member states.

The document deals with each of these components in the same way. First, the objective and the legal basis for action are identified. Then the text specifies activities to be implemented, followed by “benchmarks for assessing progress”. A list of “capacity requirements” concludes each part. Both the member states and ECOWAS itself are the addressees of these procedures and policies.

Generally, all governance standards and procedures are framed as strengthening structural conflict prevention and enhancing regional security. The ECPF's overall aim is to “strengthen human security” (point 5). Human security “refers to the creation of conditions to eliminate pervasive threats to people's [sic] and individual rights, livelihoods, safety and life; the protection of human and democratic rights and the promotion of human development to ensure freedom from fear and freedom from want” (point 6).

The main rationale of the ECPF is not to establish new norms or standards. On the contrary, “the Mechanism and the Supplementary Protocol on Democracy and Good Governance provide the principal basis and justification for the ECPF” (point 39). The ECPF aims to facilitate the realization of the relevant provisions from previous protocols and the Revised Treaty by developing lists of potential activities involving both the ECOWAS organs and the member states. In contrast to the 2001 Protocol, the ECPF does not speak of constitutional requirements but rather of objectives that ECOWAS should strive for. The ECPF is intended to “set practical guidelines on conflict prevention to which ECOWAS and Member States can refer

in their cooperation and in their engagement with partners” (point 29) and provide for more synergy and better coordination between existing ECOWAS institutions and policies, including the activities of international partners. At the same time, governance standards are sometimes spelled out more precisely in the ECPF and go beyond the formulations of previous protocols. Standards in the ECPF can be linked to the concepts of good governance, rule of law, human rights, and democracy.

With regard to the concept of democracy, ECOWAS reaffirms the objectives set in the Protocol on Democracy and Good Governance, elaborating on its goal

“[i] to create space and conditions for fair and equitable distribution and exercise of power and the establishment and reinforcement of governance institutions; [ii] to ensure the active participation by all citizens in the political life of Member States under common democratic, human rights and constitutional principles articulated in ECOWAS Protocols, the African Charter on Human and People’s Rights, NEPAD principles and other international instruments” (point 52).

Regarding the concept of human rights, ECOWAS affirms its commitment to promoting the respect of all human rights within its member states. Here, the ECPF is much more detailed than previous ECOWAS documents. ECOWAS shall facilitate the adoption, reform and enforcement of “human rights instruments to promote human rights, access to justice” (point 57-b). It shall also

“facilitate enforcement of human rights policies in favor of the marginalized, including ethnic and religious minorities, women and youth, particularly in the areas of popular participation, and political, inheritance and property rights” (point 57-c).

The ECPF mentions a number of more specific human rights standards, such as child rights (point 57-e), legislation against forced marriage and modern slavery (point 57-f), and fair citizenship rights (point 57-k).

While the Commission already initiated the Gender Policy Document (ECOWAS 2005-a) in 2005, the ECPF fully incorporates women’s rights into its broader mandate of governance reform. The general norm of gender equality in political decision-making is specified by determining rules and procedures (“benchmark”). The norm states that “ECOWAS shall facilitate ... [and] implement targeted programs to enhance the active involvement of women in decision making” (point 53-d). This can be obtained through the procedure of adopting “affirmative policies on minorities, women, youth and the marginalized, including quota systems and waivers for women, as well as incentives for pro-women parties” (point 54-f).



The rule of law also receives mention in the ECPF. According to the document, member states shall “allocate resources and training to enhance the effectiveness and fairness of traditional courts” (point 52-n). Another new idea is that member states “shall create space and structures to address issues of past and present justice to promote reconciliation and unity” (point 57-d). The strongest norm is contained in point 57-h, where

“Member states shall respect and enforce constitutional provisions that guarantee the independence, transparency and fairness of the Judiciary and human rights institutions.”

Regarding the concept of good governance,

“ECOWAS shall assist Member States to promote the professionalization of governance institutions by building and strengthening transparent, nonpartisan, efficient and accountable national and local institutions, in particular the civil service” (point 53-b).

Member states shall also

“establish and ensure the functioning of mechanisms and processes for power decentralization, including the strengthening of local government structures and assisting traditional rules to effectively oversee community development” (point 53-h).

The norm of decentralized governance thus appears much more prominently and precisely than in previous legal documents. The governance standards are supplemented by rules and procedures in the field of natural resource governance where member states are to increase transparency *inter alia* through

“regular parliamentary, national and media debates, regular publication of terms of contracts, receipts and disbursement of proceeds from natural resources in the media” (point 66-b).

These lengthy enumerations reveal the ambiguous character of the ECPF. The document includes all kinds of standards, but the legal character of these standards is open. Some “activities” are formulated as standards that member states have to respect (but in most cases these standards have been formalized in previous documents); other activities are rather new fields of action that might allow the ECOWAS institutions to exercise new authorities without forcing the member states to actually modify their governance structures. One of the main rationales behind the ECPF is thus the emergence of the ECOWAS Commission as a veritable actor in governance questions.

The activities described in the 14 components define a set of potential policies of governance transfer insofar as some of these activities directly address ECOWAS. As mentioned above, these activities are quite comprehensive and will not be repeated here in detail. However, despite its managerial language, the ECPF does not amount to a strategic guideline for how to implement these activities.

The adoption of standards by member states plays a central role in some sections of the ECPF. Member states make progress if they follow through with the

“adoption and/or enforcement of national constitutions that reflect the constitutional convergence principles contained in the Supplementary Protocol on Democracy and Good Governance, the African Charter on People’s and Human Rights, and international norms and standards” (point 54-a).

In the realm of media, ECOWAS demands the preparation and adoption of

“ECOWAS minimum norms and standards for media practice and the promotion of interaction and cooperation among journalists and media practitioners in the region” (point 61-a).

When these precise standards are absent, ECOWAS may be tasked with

“the development of regional Training workshops for the ECOWAS Legal and Political Affairs Departments, the Human Rights Committee of the Community Parliament, as well as the ECOWAS National Units in the elaboration of ‘model’ Human Rights legislation for adoption, modification and application by Member States; and also in judicial reform and interpretation of statutes” (point 59-a).

Generally, ECOWAS institutions should support member states in achieving compliance with governance standards. It is essential to strive for an active role of “the Community Parliament, Community Court of Justice and the Arbitration Tribunal in monitoring compliance of Member States’ [sic] with human rights and rule of law instruments” (point 58-c). Research and studies provide a means for ECOWAS to ensure compliance:

“ECOWAS shall conduct feasibility studies with a view to promoting the establishment of a region-wide news channel ‘ECOTV’ and ‘ECORADIO’ in cooperation with regional media houses and with the active support of the private sector” (point 61-b).

With regard to conducting elections, for example, the assistance ECOWAS should provide is anchored in this policy objective:

“ECOWAS shall facilitate the provision of assistance to Member States and local constituencies in the preparations for credible elections, including technical and financial support for the conduct of census, voter education, enactment of credible electoral codes, compilation of voters’ registers and training of electoral officials, monitors and observers” (point 53-f).

Beyond these diverse activities, the ECPF also includes in Section IX (points 101-121) so-called “Enabling Mechanisms”. These describe how the framework should be realized, through “Advocacy and Communication; Resource Mobilization; Cooperation; and Monitoring and Evaluation” (point 101). It is true that the ECPF includes benchmarks for all 14 components, but these “benchmarks” are mostly quite general criteria for success, such as a “Reduction in the cost of access to justice” (point 58-g) or “public confidence in governance structures at all levels” (point 54-c). The ECPF’s main policy beyond mobilizing additional resources is thus advocacy for and communication of the governance standards included in the document. With regard to the many instances in which member states ask ECOWAS for assistance, the ECPF does not establish any specific mechanism to this end.

### **3.1.8 Conclusion**

Governance standards emerged on ECOWAS’s agenda in the early 1990s and were mainstreamed and slowly institutionalized (and made more legally binding) with the 1999 and the 2001 protocols. Governance standards were essentially established as part of a human security concept that continues to guide political action in ECOWAS. There is no doubt that ECOWAS as an organization has a commitment to promote governance standards within its member states. On the contrary, ECOWAS has never taken issue with governance standards in non-member states.

Governance standards have changed over time. A strong focus on democracy and human rights has been complemented by standards for the rule of law and good governance. The concept of democracy has developed most thoroughly, especially with the 2001 Protocol, in which the commitment to a liberal version of democracy fully emerges for the first time. Human Rights standards that initially consisted of basic commitments to existing international norms developed further and encompassed newer debates derived inter alia from gender discourses and human security.

The terminology within ECOWAS has tended to merge standards of human rights and rule of law, and similarly to treat democracy and good governance as largely synonymous. The more specific aspects of good governance, such as the fight against corruption or the need to promote decentralization of governance, have only been added in a second stage, probably because they are less obviously linked to crisis prevention and conflict management. With the exception of the Protocol on the Fight Against Corruption, it is worth noting that the broader donor agenda on good governance (public sector management, financial governance) is largely absent from ECOWAS discourses and that the transfer of good governance does not feature prominently among the many standards discussed in the protocols and in the ECPF. It also becomes clear

that West African leaders are much more concerned with elections than with the rule of law. In addition, gender issues and woman rights have only been included quite recently as governance standards, and not in a binding form. There are no specific protocols that deal explicitly and specifically with gender issues, although ECOWAS adopted by decision of the Authority in 2005 a Gender Policy Document (ECOWAS 2005-a) intended to mainstream gender policies in member states, asking member states to ratify existing international treaties. ECOWAS also created a new agency to focus on these issues, the ECOWAS Gender Development Centre based in Dakar, but it lacks capacities and political support.

Whatever ECOWAS's reasons for establishing the innovative, wide-ranging standards and rules of the 2001 Protocol, they have not been complemented by specific policies to actively promote compliance. Most of the organization's legal texts assume that member states have the political will to comply with standards, even where it is obvious that they do not. Member states certainly did not want to empower the Secretariat (and later the Commission) or the Court to take an active part in the promotion of governance standards. One exception is the Mechanism for Conflict Prevention, which prescribes a more detailed procedure concerning military interventions in member states. With a history of two military interventions of ECOWAS Ceasefire Monitoring Group (ECOMOG) mandated *ad hoc*, this exception is easily explained by the necessity of heads of state to find a more formalized procedure for strong intervention in the authorities of member states. It is important, however, that the ECOWAS organ empowered here is the MSC, or the Authority of Heads of State. Although the 2001 Protocol was quite detailed on the meaning of democracy, it fell short of providing a more systematic and fine-grained strategy for how to promote democratic standards in member states below the level of a military intervention. By extending the authority of the Court of Justice to include taking action on human rights violations, the protocol certainly took a major step in the development of governance transfer; at the same time, the Court cannot reasonably be viewed as a dispute-settlement mechanism that deals systematically with breaches of standards for legitimate governance institutions in the member countries.

With the institutional reforms in January 2007 that transformed the Secretariat into the Commission, ECOWAS appointed a Commissioner responsible for political affairs, peace, and security (there had been a Vice-Secretary responsible for political affairs and security in the Secretariat since the mid-1990s). This department's main task has been to coordinate national institutions rather than to formulate and implement regional policies. The ECPF represents an ambitious attempt to complement the abstract and vague standards of the protocols, as well as their largely punitive approach to governance transfer, with more specific ECOWAS activities and a more positive and facilitating approach. Yet, it fails in large part to provide a systematic procedure and operational guideline about governance transfer through ECOWAS. ECOWAS also lacks the financial resources and human capacities to start assistance programs to promote standards for legitimate governance institutions.

### 3.2 Measures of Governance Transfer: Adoption and Application

ECOWAS has actually developed quite an impressive toolbox of instruments, especially if we include the long list of activities proposed in the ECPF. Since the ECPF is relatively new, not very much of it has been tested, as a workshop with all major stakeholders (Governments, civil society, ECOWAS) confirmed (Atuobi 2010).

Taking the governance instruments proposed by Börzel et al. (2011) as our starting point, we nevertheless encounter examples of ECOWAS implementing nearly all types of these instruments at various times in its various member states: We find coercive measures such as military force, but probably with less frequency than if the norms were consistently enforced (3.2.1). In principle, we also observe examples of litigation (3.2.2). Diplomatic measures exist especially in the field of democracy and are decided ad hoc by the Authority or the MSC (3.2.3). ECOWAS has also established incentives, mostly sanctions (3.2.4). In addition, there are non-coercive monitoring mechanisms, such as election observation (3.2.5). We will group together Börzel et al.'s two remaining categories. ECOWAS provides no financial assistance—and hardly any technical assistance—to its member states, but we do find fora for exchange and dialogue (3.2.6).

#### 3.2.1 Military Intervention

**Liberia 1990–98:** ECOWAS became internationally famous for starting a military intervention in Liberia without a proper UN mandate. The 1990 ECOMOG intervention was clearly not intended to enforce the transfer of governance standards. ECOWAS leaders found a legal basis for the operation in the 1978 ECOWAS Protocol on Non-Aggression and a 1981 ECOWAS Protocol on Mutual Assistance in Defence, although these two protocols clearly did not allow for an intervention into the internal affairs of a member state (ECOWAS 1978, 1981). ECOWAS heads of state argued that the Liberian civil war was not purely internal but internationalized by the fact that rebel leader Charles Taylor had prepared the rebellion from bases in Côte d'Ivoire and refugees and rebels migrating across borders threatened the stability of neighboring countries (Gandois 2009). ECOWAS thus considered the war in Liberia to be a threat to the whole region. The ECOWAS summit in Banjul (Gambia) accepted the proposal by Nigerian President Babangida on 28 May 1990 to form an ECOWAS Standing Mediation Committee (SMC) composed initially of Gambia, Ghana, Mali, Niger, Nigeria, and Togo (Sierra Leone and Guinea joined later). The SMC agreed in July on a peace plan that included ceasefire, the establishment and deployment of the ECOWAS Ceasefire Monitoring Group (ECOMOG) to monitor the ceasefire, and the establishment of an interim Liberian government. This peace plan was formally adopted by the SMC heads of state members on 7 August 1990. The military operation, which was only loosely coordinated at the regional level and included 11 member states, began on the ground on 24 August; ECOMOG's limited mandate soon became a problem. The warring factions did not accept the peace plan, and after an increase of manpower from 3,000 to 6,000 starting on 12 September 1990, ECOMOG tried to enforce the ceasefire.

The details of the 1990 intervention, which actually lasted until 1998, do not interest us here, since its main purpose was to end violence and not to transfer governance structures. For a long time, ECOMOG was unable to end violence in Liberia or to stop the spillover of violence to Sierra Leone, and in 1993, the UN established the United Nations Observer Mission in Liberia (UNOMIL) to add non-West African troops. ECOWAS was instrumental in preparing a new Peace Plan in 1996 (Accra Peace Plan), which led to ceasefire, demobilization, and the organization of elections in May 1997. Rebel leader Charles Taylor was elected President in these elections. The ECOMOG mission ended in 1998 (Körner 1996, Aning 1999, van Walraven 1999, Olonisakin 2000, Tuck 2000, Korte 2001, Deme 2005, Kabia 2009).

**Sierra Leone:** The Declaration of Political Principles (1991) and the Revised Treaty (1993) had allowed ECOWAS to deal with governance issues. In 1997, before the two protocols were enacted, ECOWAS took decisive action in Sierra Leone against the coup-makers. The civil war in Sierra Leone (Olonisakin 2000, Francis 2001, International Crisis Group 2001, Adebajo 2002, Kabia 2009) that began in 1991 had not elicited a strong reaction from ECOWAS member states. In Sierra Leone, the Revolutionary United Front (RUF) fought against the central government, prompting a number of military *coups d'état*. Relatively free elections in March 1996 led to the victory of opposition candidate Ahmed Tejan Kabbah. The new president, with the help of the UN and ECOWAS, managed to secure a new peace agreement with RUF in November 1996, which led to the demobilization of RUF and its transformation into a political party.

Even before the provisions of the peace accord could be fully implemented, the armed forces took power on 25 May 1997 and suspended the constitution; a Major Koroma became the new head of state. In the wake of the armed coup, Nigerian military forces present in the region under the ECOMOG umbrella tried to evict the junta from power, but failed to do so. ECOWAS leaders who met at the ECOWAS Summit on 30 August 1997 in Abuja formally authorized ECOWAS to restore democratic order in Sierra Leone. Negotiations with the coup leaders led to an agreement in October 1997 to accept the reinstatement of the elected government. When it became clear that the military junta did not seriously keep the agreement, ECOMOG units and Nigerian troops marched again into Freetown on 10 March 1998 and ended military rule without serious fighting. President Kabbah was reinstated shortly afterward, so this coercive measure led to the successful enforcement of a governance standard. However, the conflict with RUF was not over. The UN Security Council mandated ECOMOG to reestablish peace in Sierra Leone (Resolution 1162, 17.4.1998). ECOMOG troops were unable to hinder RUF from attacking the capital city in January 1999. Nigerian special troops took control and ended the fighting. The Lomé peace agreements of July 1999 effectively ended the war. A 11,000-strong UN-Mission (UNAMSIL) took over from ECOMOG to monitor demobilization and prepare for the elections. Some ECOMOG troops stayed in the country as part of the UN mission until the end of demobilization in May 2001. The 2002 elections marked the return to a peaceful political order with a democratically elected government.

The ECOWAS action in Sierra Leone was the first African military intervention for the purpose of restoring democracy. In fact, it was a Nigerian military intervention for the restoration

of democracy bizarrely initiated by a country ruled by military dictator Sani Abacha. When it started the military intervention in 1998, ECOWAS did not act on solid legal ground. A bilateral security agreement existed between Nigeria and Sierra Leone authorizing Nigeria to intervene if asked by the Sierra Leone authorities. With Resolution 1132 (8 October 1997), the UN Security Council had decided to enact sanctions against the military regime in Sierra Leone and mandated ECOWAS to monitor the implementation of these measures. The UN Resolution, however, clearly did not authorize a military intervention to restore democracy. It was the UN Security Council that resolved this problem by authorizing the intervention *ex post* in April 1998. ECOWAS leaders had agreed in August 1997 not to accept the military coup. Whether the Revised Treaty of 1993 really permitted a military intervention to restore democracy is a legal question that we cannot resolve here. Whatever the hidden agendas of the intervening power Nigeria, the reinstatement of the Kabbah regime was used as its official legitimation and served as a self-reinforcing mechanism and a powerful reminder to all future coup-makers that similar activities could lead to similar reactions.

**Guinea-Bissau 1998–99:** ECOWAS's 1998 military intervention in Guinea-Bissau was motivated in a similar way by the desire to stop civil war and restore the constitutional order, but it was also plagued by a lack of sound institutional framework. Following a rebellion by parts of the army leadership, President Joao Bernardo Vieira, who had ruled the country since 1980, requested military support from Senegal and Guinea on the basis of a bilateral security agreement (Francis 2005: 144, Gaillard 1999, Wegemund 1999). President Vieira also directly addressed ECOWAS to request an ECOMOG intervention on the basis of the Revised Cotonou Treaty in order to protect his rule. Senegal and Guinea intervened militarily with 2,000 and 400 soldiers, respectively, before ECOWAS institutions could agree on a position. The heads of state eventually authorized *ex post* the military intervention by the two neighboring countries, which reinstated President Vieira.

Since ECOWAS was not considered sufficiently impartial to conduct a mediation process by itself, it joined forces with the Community of Portuguese Speaking Countries (CPLP) in July 1998 and could thus broker a peace deal in November 1998, leading to an interim government and then fresh elections in 1999 (Massey 2004: 87). The peace deal also stipulated the replacement of Senegalese and Guinean troops by an ECOMOG force composed of troops from four Francophone member states plus the Gambia. Lack of support from Nigeria, however, prevented the mission from thriving and reaching the promised 1,500 troops. By the end of February 1999, the mission stood at only 712 soldiers and lacked critical military equipment to operate nationwide in an effective manner (Ero 2000). New fighting broke out in April 1999, and due to the dramatic lack of equipment, finances, and experienced soldiers, the ECOMOG troops in Guinea-Bissau were unable to prevent Army General Mané from taking power on 7 May 1999 and sending President Vieira into exile.

ECOMOG left in June 1999 before new elections, having failed to protect President Vieira and the constitutional order (cf. Adebajo 2004, Frempong 2005, Kabia 2009). A former ECOWAS spokesperson, Diop, described the undertaking as

“a big disappointment for ECOWAS. We tried to solve things in a peaceful manner. Elections were due in November. They could have waited to change the government through elections. ... It undermines the sub-region” (Agence France Presse, 10 May 1999, quoted by Aning 2000, 61).

ECOWAS Executive Secretary Kouyate declared that “[ECOWAS] can no longer accept the overrule of law this way” (Agence France Presse, 24 May 1999, quoted by Aning 2000, 61). It is doubtful that we can consider the military intervention in Guinea-Bissau a coercive measure. The Senegalese-Guinean intervention occurred on invitation from the incumbent regime; the second official ECOMOG intervention was approved by all stakeholders in the peace agreements. When ECOMOG left, it was against the explicit will of the military leadership under General Mané (Ero 2000).

**Côte d’Ivoire 2003–04:** The fourth ECOWAS military intervention within 13 years occurred in a Francophone country for the first time. A protracted economic and political crisis, together with growing tensions among ethno-regional groups under President Bedié, had triggered a military coup d’état by the army leadership in December 1999. The action met with only lukewarm protest among national and international observers (ECOWAS also protested), especially as the army leadership declared its willingness to step down after constitutional reforms (Hartmann 2000). The eventual attempt by army chief Robert Guéï to run in the presidential elections of October 2000 and exclude the main opposition candidate, Alassane Ouattara, from political competition using dubious legal arguments further polarized the country. When Guéï tried to rig the elections, a popular revolt broke out, leading the army to declare the second candidate, Laurent Gbagbo, president. But Gbagbo failed to stabilize the country and appease the disgruntled population in the North, who felt that their leader Ouattara had been deprived of the presidency. A second military coup d’état in September 2002 led to civil war, and a French military intervention hindered rebelling army units from attacking the capital city Abidjan. This external intervention established the division of the country into a southern part controlled by the Gbagbo government and a northern part controlled by the rebel forces (Mehler 2002).

ECOWAS first reacted by showing solidarity with President Gbagbo in September 2002; a high level contact group composed of seven heads of state was established with the task of convincing the rebels to surrender. Togo’s President Eyadema served as the coordinator of the contact group, which managed to arrange a cease-fire by 17 October 2002. The Mediation and Security Council decided on 26 October to establish the ECOWAS Peace Force for Côte d’Ivoire (ECOFORCE, later renamed ECOMICI, or ECOWAS Peacekeeping Force in Côte d’Ivoire) with a mandate to monitor the end of hostilities and to stabilize the humanitarian situation. The ECOWAS Secretariat at that time had just two staff members to prepare decision-making processes and to implement the whole mission; in the end it was actually France that financed and logistically organized the intervention (Adebajo 2004).

Negotiations in the Parisian suburb of Linas-Marcoussis led to a first peace agreement in January 2003 involving all military factions and political parties. This paved the way for a Gov-



ernment of National Unity tasked with preparing free and fair elections, demobilizing armed forces, and revising the contested constitutional provisions. ECOWAS participated in the negotiations, but France essentially managed the process. Following the peace agreement, 500 ECOMICI troops moved to Côte d'Ivoire, but the main responsibility for conflict management clearly rested on the shoulders of more than 3,000 French soldiers based in Côte d'Ivoire. The UN Security Council decided in May 2003 to establish a UN Observer mission, followed by a peace-making mission of more than 10,000 blue helmets after a new escalation on 27 February 2004 (United Nations Operation in Côte d'Ivoire, UNOCI), established under Chapter VII. On 5 April 2004 the remaining ECOMICI troops were integrated into the UNOCI mission.

Over the course of the various attempts at international mediation between 2005 and 2010, ECOWAS became increasingly marginalized. The Ouagadougou peace agreement of March 2007, which created a roadmap for the elections of 2010, was eventually presented by ECOWAS as the result of their mediation. However, Burkina Faso's Head of State, Blaise Compaoré, began a mediation without any mandate by the regional organization and concentrated solely on Gbagbo and the rebel leader Guillaume Soro. ECOWAS's military intervention in Côte d'Ivoire thus represents neither a good example of governance transfer nor a coercive measure in the strict sense. It had a purely military role and remained restricted to this original function.

**Liberia 2003:** ECOWAS carried out a brief second military intervention in Liberia in 2003. Taylor's electoral victory of 1997 soon caused a new military rebellion and led to new civil war. Hostilities could be stopped by a cease-fire agreement signed under ECOWAS auspices in Accra on 17 June 2003. The cease-fire was monitored by the ECOWAS Interposition Force to Liberia (ECOMILI) with the first troops deployed to Liberia at the beginning of August 2003. The Accra peace agreement of mid-August established an interim government for a timespan of two years. UN-Resolution 1497 of October 2003 established the United Nations Mission in Liberia (UNMIL), which absorbed the ECOMILI contingents. This time, the UN-supervised process laid a better foundation for peace making. In October 2005, Ellen Johnson Sirleaf was elected President.

### 3.2.2 Litigation

The ECOWAS Community Court of Justice (CCJ) was created through a protocol in 1991 and then added to the 1993 Revised Treaty. However, it was not until 1996 that the protocol entered into force. According to the documents, the court should consist of seven qualified judges "of high moral character", with no member state represented by more than one person. Judges are meant to serve full-time, for either a three-year term (renewable once) or a single five-year term (Nwogu 2007: 350–51). A supplementary protocol in 2006 changed this to two or four years, respectively, (ECOWAS 2006).

Although the provisions establishing the court date back to 1991, the first set of judges was appointed by the ECOWAS Authority in 2001. After that, the CCJ seemed to be idle until the *Olajide Afolabi v. Nigeria* case in 2004 (Ebobrah 2008: 16). This suit was dismissed by the court,

which accepted the Nigerian government's argument that an individual had to be represented by his or her government in front of the CCJ—while the businessman Olajide Afolabi was in fact suing his own country. The court's lack of jurisdiction in this case led the judges to appeal to the ECOWAS Authority. A new supplementary protocol in 2005 (ECOWAS 2005-b) explicitly expanded the CCJ's competencies to deal with cases brought by individuals and with human rights issues (Nwogu 2007: 351–53). In addition, the court has made clear that it considers itself to be the “first and last resort”, meaning that it will not appeal verdicts by national courts, and that its own rulings cannot be appealed (Nwogu 2007: 354).

The CCJ has indeed dealt with some human rights cases since then, with numbers ranging from three to eight per year through 2008 (Ebobrah 2008). The first, *Ugokwe v. Nigeria*, was dismissed once again for the court's lack of jurisdiction in 2005 because the plaintiff had already brought the case before a national court (Nwogu 2007: 353). However, Nigeria did comply with a preliminary injunction issued by the court in an early stage of the case, signaling that an enforcement of CCJ verdicts is possible (Nwogu 2007: 355). Another noteworthy case is *Koraou v. Niger*, resulting in a 2008 CCJ verdict sentencing the government to pay a fine because it had failed to protect a citizen from slavery (African Human Rights Case Law Database). In contrast, it has been argued that some of the cases brought to the CCJ under the label of human rights had “little to do with the complex human rights issues and are matters that can be resolved in national courts” (Ebobrah 2008: 35). As of December 2009, 85 percent of all cases were related to human rights allegations (Ebobrah 2010; Ebobrah/Tanoh 2010: 261). The ECOWAS Court had never been concerned with interpreting ECOWAS standards or protocols (or even quoting from ECOWAS legal documents), at least until the end of 2010. All human rights cases were based on the Universal Declaration of Human Rights, the UN Pacts, or the African Charter (Sall 2011: 26). On only one occasion, in *Olajide Afolabi v. Nigeria* in 2004, did the plaintiff base his case, *inter alia*, on the violation of the Revised Treaty provisions and an ECOWAS protocol (on free movement)—but the ECOWAS Court did not position itself on the material issues because individuals could not bring cases to court before the enactment of the additional 2005 protocol.

All in all, the Community Court of Justice seems to be active and fully operational, opening the option of legal coercion *vis-à-vis* ECOWAS member states (Article 15-4 ECOWAS Treaty). The core problem remaining is the apparent irrelevance of specific ECOWAS standards and the poor implementation and enforcement of decisions against member states. Strictly speaking, the Court has no direct means of ensuring state compliance but has to rely instead on respect from member states for their commitments under the treaty. The Court can also refuse to proceed with any other application brought by an offending member state until that state has enforced the earlier decision. As a last resort, Article 77 of the Revised Treaty also provides for the imposition of sanctions by the Authority (not the Court) against a member state that fails to fulfill its obligations to the Community (Nwauche 2011).

### 3.2.3 Diplomatic Intervention and Sanctions

We have seen above that coercive measures have rarely been used to enforce compliance with legal standards established through the protocols. There is also a lack of positive conditionality or positive incentive structures that would facilitate compliance with governance standards. The main ECOWAS policy has consisted of a mixture of diplomatic missions, fact-finding commissions, the threat of sanctions, and the actual use of those sanctions, which are regulated in the Revised Treaty and the 2001 Protocol.

There is no systematic, regular monitoring of compliance with governance standards in the ECOWAS member states. This is not only a problem of capacities; the protocols do not provide for a body that might be entrusted with monitoring the member states. The ECPF comes closest to establishing a regular reporting mechanism, but it has remained a dead letter so far. The ECPF also lacks operationalized indicators to assess standards, and the Commission would have to rely on the member states themselves to collect data on corruption, intergovernmental fiscal relations, children rights, or people's access to justice—data that most member states have not collected so far.

ECOWAS has thus not reacted to the overall performance of its member states in the fields of human rights, democracy, good governance, or rule of law. It has not even reacted in the case of rigged elections (see below). The organization has only stepped in following dramatic regressions, particularly after the breakdown of constitutional order and civilian or military coups d'état. These situations were in such flagrant violation of the commonly agreed upon norms that ECOWAS had to act. In the following paragraphs, we will give an overview of the instruments ECOWAS adopted to address the various constitutional crises in West Africa since the enactment of the protocol.

**Guinea-Bissau 2003:** In 1999, Kumba Yalá was elected president in free and fair elections. However, in the years to follow, Yalá developed a rather autocratic style of rule. In 2001, his attitude became increasingly erratic: he suspended the General State Attorneys and thereby abolished the democratic and constitutional division between the judiciary and the executive. The parliament then demanded the reinstatement of the judiciary and withdrew its confidence in the president, who in return threatened to shut down the parliament for the next ten years. Additionally, Yalá frequently constricted the freedom of press by prohibiting the newspapers *Diário de Bissau* and *Gazeta de Noticias*. In 2002, the opposition parties published a declaration describing the president as an obstacle to development and peace, accusing him of violating the constitution and calling for his resignation. Instead, the president dissolved the parliament and repeatedly postponed the date of new elections (Augel 2003).

ECOWAS did not react to the deterioration of many governance standards (as fixed in the 2001 Protocol) in Guinea-Bissau, but it did step in when army leaders under General Saebra ousted Yalá in 2003. The international community—including ECOWAS—formally condemned the coup d'état in Guinea-Bissau. It seemed, however, that the international and regional com-

munities saw the coup as a chance to return to democracy and rule of law; hence, no effort was undertaken to reinstate Yalá as head of state (Magalhães Ferreira 2004). Instead of restoring Yalá as president, Joachim Chissano, president of the African Union (AU), asked ECOWAS to support the creation of a transitional government of national unity and help prepare for new national elections. ECOWAS established a fact-finding mission under the leadership of Ghana (Olonisakin 2009: 194). Additionally, ECOWAS sent a delegation comprising ministers from Cape Verde, the Gambia, Guinea, Ghana, and Nigeria to negotiate a peace agreement, which was concluded successfully after just 48 hours (Frempong 2005: 16). The agreement provided for a transitional government and the advent of free and fair legislative elections. During the negotiations, Saebra had facilitated the process of reaching an agreement by returning his troops to their barracks and indicating that he had no desire to take over power (Magalhães Ferreira 2004). Yalá also resigned officially in order to lay the groundwork for a peaceful transition. A Charter of Political Transition was formulated under the supervision of ECOWAS and the CPLP, which proposed holding legislative elections by March 2004 and presidential elections one year later. Additionally, Henrique Rosa, a respected businessman, was appointed interim president of the government of national unity (which included many civil society leaders). The legislative elections in 2004 took place without any violent interruptions.

ECOWAS thus managed to achieve a relatively smooth transition from the coup d'état to the reconstitution of democratic structures and the rule of law. The negotiating actors found an ingenious solution to reconcile the fiction of maintaining constitutional order with the generally desired departure of the head of state, as well as with his poor commitment to democracy and constitutionalism: the regionally engineered deal included the president's "voluntary" resignation and departure for exile, followed by fresh elections under the old constitutional dispensation.

**Togo:** The sudden death of long-reigning autocratic President Gnassingbé Eyadéma on 5 February 2005 triggered a constitutional crisis. Eyadéma had systematically avoided taking decisions on his succession. According to Togo's constitution, the speaker of parliament had to take over the government and organize fresh elections within 60 days. The day after Eyadéma's death, however, the parliament (in which the president's party controlled a majority of seats) elected Faure Gnassingbé, the late president's son, to serve as president until the end of the original term in 2008. The speaker of parliament, who had been abroad at the time of Eyadéma's death, was hindered by the army from returning to Togo (Ebeku 2005). After fighting for the past 15 years for free and fair elections, the opposition mobilized the international media, and the international community and ECOWAS condemned the actions as unconstitutional. ECOWAS also declared that it would initiate sanctions if the constitutional order were not restored. AU Chairman and Nigerian President Olusegun Obasanjo even threatened the Togolese leadership with military intervention, although this was neither the AU's nor ECOWAS's official position (Engels 2005, Kohnert 2005).

This strong diplomatic pressure had some effect on the ruling party and the army as the main pillar of the regime. On 25 February, Gnassingbé resigned and announced new elections for 24

April. Although the opposition asked for reforms of the electoral system and the establishment of an independent electoral commission, the elections were held according to Gnassingbé's plan, and he was declared the winner and the newly elected President. In Togo, ECOWAS (at that time headed by a weak chairman from Niger) was sidelined by the African Union with a notable clash between AU Chairman Obasanjo and Chairman of the AU Commission Alpha Konaré (from Mali) about how to proceed. After lengthy debates among the West African heads of state, the pragmatic Obasanjo camp prevailed, and the election was eventually accepted as a return to constitutional order.

**Guinea:** To a certain extent, the situation in Guinea was quite similar to Togo. President Lansana Conté, who had taken power through a military coup in the early 1980s, died on 23 December 2008. His death marked the end of one of the most autocratic regimes in West Africa. A group of young officers used the window of opportunity to take power that same evening in order to avoid a "constitutional solution," which would have entrusted power to a discredited party elite and allowed this elite to continue propagating their corrupt practices. Although the coup did not lead to any protests in the capital city, the international community did condemn the events. During an extraordinary summit on 10 January 2009, ECOWAS leaders ruled out a "military transition" and, on the basis of the 2001 Protocol, suspended Guinea from participating in all ECOWAS decision-making processes (International Crisis Group 2009).

ECOWAS had few other options. It asked the military junta to return as soon as possible to the constitutional order, which meant organizing new elections in a hopefully more democratic setting. Compaoré, the ECOWAS mediator and president of Burkina Faso, himself a former coup maker, did not manage to influence the course of events. The situation escalated with a massacre of civilians by uniformed members of the armed forces in the national stadium of Conakry on 28 September 2009. Junta chief Dadis Camara was nearly killed on 3 December in an assassination attempt and fled to Morocco for medical treatment. During his absence, other members of the junta installed a civilian transition government and fixed a schedule culminating in elections to be held in June 2010. Most contested was the possibility of military rulers campaigning as candidates in the forthcoming elections. In the end, collective pressure by the international community including ECOWAS led to the exclusion of military leaders from the race. Following the elections of a democratic government, Guinea was re-admitted to ECOWAS at the end of 2010.

In addition to monitoring the return to constitutional order, ECOWAS identified the reform of the Guinean security sector as the biggest challenge to be tackled in the near future.

**Guinea-Bissau 2009:** After the 2003 upheaval described above, Guinea-Bissau did not truly manage to establish political stability. On 2 March 2009, Chief of Staff Batista Tagme Na Waie was killed, and President João Bernardo Vieira was murdered hours later in an act of revenge by military men loyal to Waie. The incident reflected growing political instability. Vieira had lost the parliamentary majority in the legislative elections of November 2008, precipitating failed attempts at a coup d'état and the president's murder in the wake of the elections. General Waie

had been a member of the military junta that ousted Vieira in 1998; he had repeatedly accused the president of involvement in drug trafficking and corruption. When the chief of staff was attacked in January 2009, he immediately accused the president of orchestrating the operation from behind the scene. Hence, when Waie was assaulted in March, his troops were certain that Vieira was the person who should be brought to justice (Zounmenou 2009).

The international community condemned Vieira's assassination and demanded a quick return to stability and normalcy. On 3 March, ECOWAS already sent a ministerial delegation to Guinea-Bissau in order to work on a peaceful transition. This delegation comprised ministers from Nigeria, Burkina Faso, Cape Verde, the Gambia, and Senegal. President of ECOWAS Commission Ibn Chambas warned the army that any attempt to seize power would not be acceptable and would lead to political isolation (afrol News 2009). Military leaders had indicated earlier in the day that the events were not meant as a coup d'état and that the military would respect the constitution and democratic order. However, Chambas made clear that a security sector reform in Guinea-Bissau needed to be one of the priorities during the reconstruction of democratic order (Butty 2009).

On 3 March 2009, the former speaker of the National Assembly was sworn in as interim president, and elections were set to take place within 60 days as required by the Constitution. On 20 March, the ECOWAS ministerial delegation visited once more to discuss the situation with the stakeholders. Chambas declared that ECOWAS would support the transition process and the next elections to ensure a transparent and fair process. However, the situation remained fragile. On 5 June 2009, two presidential candidates were killed. The presidential elections resulted in the victory of Malam Bacai Sanha after the second round on 26 July 2009. Within the army, many tensions remained, leading to a failed coup d'état attempt on 1 April 2010. ECOWAS had acted swiftly in 2009, but the threat of sanctions was obviously no longer sufficient to solve the political conflicts in Guinea Bissau.

**Niger:** In Niger, ECOWAS also had to deal with a military coup d'état against President Mamadou Tandja. When the coup occurred in February 2010, Niger had already been suspended from membership in ECOWAS. Presidents Tandja's second and last mandate ended in December 2009. The Constitution of Niger allowed, as many other African constitutions do, two consecutive presidential terms. At the end of 2008, Tandja and his supporters had started to request a constitutional revision to allow Tandja to win another presidential election. After the incumbent president failed to secure a two-thirds majority in parliament to modify the constitution, he simply called for a referendum on the extension of his term—a procedure that clearly did not comply with the constitution. In May 2009, the Constitutional Court declared the referendum unconstitutional. The President then dissolved both the parliament and later the Constitutional Court. Despite all national and international protests, the referendum took place on 4 August 2009. 92.5% of the population that participated in the referendum agreed to prolong President Tandja's term for three years with an unlimited possibility of candidature after that. The parliamentary elections were scheduled for 20 October 2009.

ECOWAS had already begun to react to the constitutional crisis (Sperling 2009), condemning the dissolution of parliament and the Constitutional Court. Further measures, however, were only taken after the referendum had already occurred. A few days before the legislative elections, the 17 October 2009 summit of heads of state declared the events in violation of the 2001 Protocol. The leaders asked President Tandja to annul the elections, start dialogue with opponents, and end the constitutional crisis. On 18 October, General Abdusalami Abubakar, the former Nigerian head of state, traveled together with Liberian President Sirleaf Johnson to Niamey for talks, but their mediation was to no avail. The elections proceeded, and ECOWAS suspended Niger's membership in the organization. Nigeria also announced that it would evaluate the possibility of an intervention according to Article 45 of the 1999 Protocol, but this threat apparently lacked credibility. When military units finally deposed Tandja in a coup in February 2010, ECOWAS was rather relieved. This operation did not represent a coup against constitutional rule, even if the army's continued involvement in the politics of the country is hardly in line with the 2001 ECOWAS Protocol.

**Côte d'Ivoire 2010–11:** Following the civil war, the UN intervention, and an apparent breakthrough with the Peace Accords of Ouagadougou (2007), it took more than three years to prepare for free and fair elections, reunification of the two separately administered territories, and the demobilization of rebels and militias, eventually leading to presidential elections on 31 October 2010. No candidate managed to gain an absolute majority in the first round, and in an increasing violent atmosphere, a presidential run-off was held between incumbent President Laurent Gbagbo and opposition candidate Alassane Ouattara on 27 November 2010. After the third-place candidate, former President Henri Konan Bedié, asked his followers to vote for Ouattara, an opposition victory seemed tenable. Problems began in the wake of the run-off elections.

The Independent Electoral Commission (CEI), tasked with disseminating the election results, was hindered from doing so by Gbagbo's representatives on the Commission. Controlled by Gbagbo's followers, the Constitutional Council declared on 3 December 2011 that 660,000 votes in the North had to be cancelled, thus handing the election to Gbagbo; according to the CEI, Ouattara had won with 54.1% of the national vote. Gbagbo was hastily sworn into office on 4 December. Meanwhile, the United Nations Special Representative for Côte d'Ivoire declared the UN's support for the results of the CEI and insisted that Ouattara had prevailed. Côte d'Ivoire thus had two Presidents: Gbagbo, whose support came from the South and whose forces controlled the capital city Abidjan, and Ouattara, whom the international community recognized as elected president but whose rule was restricted to an international hotel in Abidjan, heavily protected by UN blue helmets.

ECOWAS's reaction was very swift this time: On the day of Gbagbo's inauguration, the Commission condemned publicly "any attempt to go against the will of the Ivorian people" and asked all leaders to accept the results published by the CEI (AFP 4 December 2011). Even before a meeting of ECOWAS heads of state convened on 7 December, ECOWAS had clearly defined its position endorsing the CEI results. The extraordinary session of the heads of state and government on Côte d'Ivoire took place in Abuja on 7 December in the absence of both Gbagbo and Ouattara,

and reaffirmed this same position. The final communiqué “recognized Alassane D. Ouattara as President-elect of Côte d’Ivoire, and consequently, representative of the freely expressed voice of the Ivorian people.” ECOWAS leaders “called on Mr. Laurent Gbagbo to abide by the results of the second round of Presidential elections as certified by UNOCI, and to yield power without delay, in the best interest of the Ivorian People.” The Summit also decided to apply the provisions of Article 45 of the Protocol on Democracy and Good Governance and to suspend Côte d’Ivoire from all ECOWAS decision-making bodies until further notice.

ECOWAS’s rapid and seemingly unanimous position took Gbagbo’s regime by surprise. The UN and all Western governments soon followed suit in recognizing Ouattara as President, with the UN Security Council formally supporting this view in Resolution 1962 (20 December 2010). On 15 December, against the backdrop of mounting violence in Abidjan, ECOWAS Chairman and Nigerian President Goodluck Jonathan sent a letter to Gbagbo requesting an immediate transfer of power to President-elect Ouattara and offering Gbagbo and his family exile in Nigeria. At another extraordinary meeting of heads of state on 24 December, ECOWAS leaders threatened for the first time to stage a military intervention in Côte d’Ivoire to install Ouattara’s democratically elected government; simultaneously they decided to send a mission of three heads of state to Abidjan, composed of the presidents of Benin (Boni Yayi), Sierra Leone (Koroma), and Cape Verde (Pires). Gbagbo reacted by calling the ECOWAS military threat a conspiracy against his regime by the United States and France, and announcing that several hundred thousand immigrants from West Africa living in Côte d’Ivoire would be the first victims of a ECOWAS military invasion. The three ECOWAS leaders visited Abidjan twice, on 28 December and 3 January, but failed to influence Gbagbo’s position. During a meeting of ECOWAS chiefs of staff (with nine out of 15 member states present) on 28–29 December, preparations for a military intervention began.

Why, then, did ECOWAS not actually start a military invasion after 4 January when Gbagbo’s intransigent position had become evident? One major reason was a lack of political support and a doubtful legal basis for such a strong measure. Some ECOWAS countries made it clear that they would not send troops (including Ghana as a key player) and thereby undermined the legitimacy of a military intervention. While ECOWAS might have created a legal basis for a pro-democracy military intervention, the UN Security Council debated at length over a mandate for a more massive intervention. On 30 March, the Security Council unanimously passed Resolution 1975, authorizing UNOCI “to use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence” (UN Security Council 2011: 3), with China and India arguing that UNOCI should not become a party to the Ivorian political stalemate (Bellamy/Williams 2011: 835).

ECOWAS was also increasingly sidelined by parallel mediation through the African Union, which followed a slightly different agenda and allowed Gbagbo to win time. Although the AU had agreed in principle with the ECOWAS position on the outcome of the Ivorian elections, South African mediators Mbeki and Zuma openly favored a power-sharing agreement (Mbeki 2011). ECOWAS Commission President Gbeho stated quite undiplomatically on 8 February that



South Africa was undermining ECOWAS efforts to solve the crisis in Côte d'Ivoire (ECOWAS Press Statement 15/2011 10/02/2011); two weeks later, he lamented ECOWAS's non-participation in the African Union High-Level Panel Mission to Côte d'Ivoire on 21– 22 February 2011 (ECOWAS Press Statement 2172011; 21 February 2011). In light of the situation, ECOWAS leaders decided on 24 March to rather rely on the United Nations (AFP 24/03/2011) to increase their pressure on Gbagbo<sup>9</sup> while the rebels started a military offensive on the ground. Gbagbo was eventually captured on 11 April 2011, and Ouattara took power with the help of UN blue helmets and French soldiers. The growing financial difficulties of Gbagbo's regime also precipitated the military defeat of his army and militias. On 23 December 2010, the leaders of the West African Economic and Monetary Union (WAEMU), the organization of West African Francophone countries using the Franc-CFA, had decided to block all Ivorian accounts at the regional central bank and to recognize only President Ouattara as the legitimate representative of Côte d'Ivoire. Although all WAEMU member states are also members of ECOWAS, this very effective sanction cannot be attributed to ECOWAS.

In all of the cases described above, ECOWAS exerted considerable diplomatic pressure on the coup makers (especially in Togo 2005, Guinea 2008, and Niger 2009). The organization nearly always applied the same instruments: the summit of heads of state formed ad hoc committees, sent a mediator or two or three, and eventually took the decision to suspend membership rights (Niger, Guinea, Côte d'Ivoire). Nowhere was ECOWAS successful in restoring constitutional order, although the reasons differed from country to country. Sometimes the constitutional order was the problem itself, or the head of state had died. The most clear-cut instances were Niger 2009 and Côte d'Ivoire 2010 because in both situations, incumbent presidents (although non-signatories of the 2001 Protocol) clearly violated basic governance standards over a longer period of time. In both cases ECOWAS suspended membership-rights, sent mediators, and threatened to send a military intervention (without following through).

### 3.2.4 Election Observation

The mandate for election observation goes back to the 1993 ECOWAS treaty. Article 58-2 stipulates that “Member States undertake to cooperate with the Community” in order to “provide, where necessary and at the request of Member States, assistance to Member States for the observation of democratic elections” (Article 58-2-g). This vague formulation leaves the role of the Secretariat undefined. With the adoption of the Protocol Mechanism in 1999, ECOWAS expanded its legal bases for election observation. As part of the conflict management policy, civilian or military personnel “shall, inter alia, supervise and monitor ... elections” (Article 31). Here, election observation is part of a process to restore political authority: “To stem social and political upheavals, ECOWAS shall be involved in the preparation, organization and supervision of elections in Member States” (Article 42, 45). Only the 2001 Protocol clearly defines how elections should take place (Articles 2–10) and how ECOWAS should intervene (Articles 11–18,

<sup>9</sup> It is very unlikely that Western leaders had any diplomatic influence on Gbagbo's behavior. At the end of December 2010, Gbagbo had also refused to take a telephone call from US President Barack Obama himself.

see above). In 2008, the ECPF tasked the ECOWAS Commission with a variety of activities. It should provide

“assistance to Member States and local constituencies in the preparations for credible elections, including technical and financial support for the conduct of census, voter education, enactment of credible electoral codes, compilation of voters’ registers and training of electoral officials, monitors and observers” (point 53-f).

How have these wide-ranging policies been implemented? ECOWAS does not publish any updated information on electoral observation or electoral assistance; the Official Gazette does not even include the basic decision to send a mission. The overview we present here is based on Gandois (2009), who had access to internal ECOWAS electoral reports for the period between 1999 and 2007. It cannot be considered comprehensive. The list was updated by the author through the end of 2010.

**Figure 3: Electoral Observation Assistance 1998–2010<sup>10</sup>**

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Benin		Pa		Pr		Pa			Pr	Pa			
Burkina	Pr				Pa			Pr		Pa			Pr
Cap Verde				Pr+Pa					Pr+Pa				
Cote d’Ivoire			Pr+Pa										Pr
Gambia				Pr	Pa				Pr	Pa			
Ghana			Pr+Pa				Pr+Pa				Pr+Pa		
Guinea	Pr				Pa	Pr							Pr
Guinea-Bissau		Pa	Pr				Pa	Pr			Pa	Pr	
Liberia								Pr+Pa					
Mali					Pr+Pa					Pr+Pa			
Niger		Pr+Pa					Pr+Pa					Pa	
Nigeria		Pr+Pa				Pr+Pa				Pr+Pa			
Senegal	Pa		Pr	Pa						Pr+Pa			
Sierra Leone					Pr+Pa					Pr+Pa			
Togo	Pr	Pa			Pa	Pr		Pr		Pa			Pr

The table shows all presidential (Pr) and parliamentary (Pa) elections held in ECOWAS member states since 1998; elections with ECOWAS observer missions are marked in gray. We can observe that during the period from 1999 to 2003, ECOWAS only observed selected elections. Starting in 2004, basically all presidential and parliamentary elections had ECOWAS observer missions. One exception is Cape Verde, which remains an outsider in ECOWAS and has not signed very many protocols. Cape Verde also enforces an impeccable democratic process and does not need observers to assure the credibility of the electoral administration and results. The other exceptions are the 2009 Niger parliamentary election, which ECOWAS wanted to have cancelled, and apparently the 2007 parliamentary elections in the Gambia (although this might be a data error). The pattern during the phase from 1999 to 2003 can be interpreted as follows: either ECOWAS

<sup>10</sup> Source: author’s compilation.

was not invited by certain governments, or the organization selected particularly critical elections to observe. The latter certainly applies to the 2000 elections in Guinea-Bissau and the 2002 elections in Sierra Leone.

The specific mandate, size, and composition of ECOWAS observer missions varied a lot. There were both fact-finding and observer missions, some staffed by as few as four persons (fact-finding), others composed of as many as 300 observers (in the case of the 2010 Togolese presidential election). The composition also became more complex with both civilian and military components, and sometimes ECOWAS conducted joint missions with the European Union (in Togo 2010) or with the African Union and the United Nations (such as in Niger 2011). Members were typically parliamentarians, members of the ECOWAS Council of the Wise (a body of elder statesmen and women created by the 1999 Protocol on Conflict Resolution with rather vague authorities), lawyers, or electoral experts from civil society. In the beginning, a lot of emphasis was placed on “elders,” since wise men and women were presumed to have the necessary qualifications to conduct a wise assessment of electoral processes.

What can we say about the function of electoral observation for the transfer of governance? In general, ECOWAS electoral observation does not provide a reliable assessment of the quality of electoral processes. Most reports end by saying that elections were “fair, peaceful and transparent”. The most critical formulations amount to “generally fair” (Nigeria 2003), “relatively free” (Nigeria 2007) or “sufficiently free and fair” (Senegal 2007). Even more problematic is the fact that elections in clearly non-democratic countries such as the Gambia or Burkina Faso receive the same general verdict as elections in (more democratic) Ghana or Benin. International election monitors, which require an invitation from national authorities, tend to avoid sending observer missions to countries where the basic requirements for a free and fair democratic process do not exist; the menu of manipulation has become so rich and subtle that even experienced international observers have difficulty reaching an “objective” assessment of the whole electoral process (Schedler 2002). Electoral reports also use quite inconsistent terminology, especially because the main problem facing elections in Africa is their lack of fairness and not their lack of freedom.

ECOWAS has certainly attempted to formalize procedures in terms of both content and organization. The ECOWAS Handbook on Election Observation aiming to regularize the conduct of missions was only published in 2008 (ECOWAS 2008-b). The manual summarizes the legal and procedural aspects of election observation and sets out guidelines for how to conduct missions. Templates for evaluating the practical organization of the election process are provided to observers. Still missing is a code of conduct for observers, as it exists, for example, in Southern Africa.

The ECOWAS Commission created the Electoral Assistance Unit in 2005, roughly at the moment when systematic observation started. It is unclear how many resources the unit has at its disposal. The ECPF’s commitment to strengthening its capacities indicates that whatever resources exist are not sufficient (Article 55-b). The ECOWAS Commission has continuously

worked to professionalize its activities in the realm of election observation. Nevertheless, as an instrument of governance transfer, election observation should be classified as technical assistance rather than as an incentive. A more or less fair election has no consequence for the membership or standing of a country within ECOWAS or for its access to ECOWAS funds.

### 3.2.5 Technical Assistance and Programs for Exchange and Dialogue

We have seen that the ECPF contains many activities, most of which refer to capacity-building by the Commission to convince member states to comply with governance standards or to promote awareness among the various stakeholders, especially representatives from relevant ministries and civil society, but also from donor agencies.

Despite the logical framework of the ECPF, ECOWAS has not formalized specific budgets for these programs so far, and nearly everything has remained on paper. Activities in governance transfer still largely depend on external funding, which might explain the isolated nature of the activities and their poor connection to existing strategies and programs by non-governmental organizations, think tanks, and donor agencies in all of the relevant fields (although the innovative character of the ECPF aimed specifically to move ECOWAS policies toward a multi-stakeholder approach). Many civil society activists have credited the ECOWAS Commission for its open engagement with a range of different actors, but this involvement is strongly concentrated in the sectors of gender and security.

A good example is ECOWAS's assistance to political parties, a theme mentioned in both the 2001 Protocol and the ECPF. Political parties should be organized democratically and craft "manifestos that promote national cohesion, consensus, participatory democracy and sustainable development" (ECPF point 53-c). To this end, ECOWAS organized a "regional meeting on political parties and internal party democracy in ECOWAS member states" in Abidjan on 21–22 July 2010. Party representatives from 11 countries attended and envisaged the creation of the Forum of West African Political Parties. There has been no follow-up on these activities, and one wonders what the forum's purpose should be. Member states could actually do a lot to facilitate party activities, *inter alia* by creating and enforcing a transparent party regulation.

While the Anti-Corruption Protocol has not entered into force, ECOWAS facilitated the creation of a Network of National Anti-Corruption Institutions in West Africa (NAICWA) in 2009 with the main role of providing a platform for member states to ratify the ECOWAS protocol following a three-year road map from 2011 to 2013.

At the ECOWAS Conference held in March 2010 in Monrovia to assess the organization's 35 years, participants (including former and sitting heads of state) called for the immediate implementation of the ECPF but had few answers for why member states' commitment to implementing the documents they have signed is so poor. In October 2010, the Kofi Annan International Peacekeeping Training Centre organized a workshop together with the ECOWAS Commission

on the topic of “Enhancing the Operationalisation of the ECPF”. The discussions there concluded that two and a half years after the document’s signing and immediate entry into force,

“already activities have begun at the ECOWAS Commission to develop plans of action on the 14 components as the basis for the start of the implementation of the ECPF by policy makers in West Africa” (Atuobi 2010: 3).

The two main recommendations emerging from the workshop were to set up liaison offices in member countries to collate and coordinate activities related to the implementation of the ECPF (also with the goal of fostering national ownership), and to create a division under the ECOWAS Political Affairs, Peace and Security Department to monitor and evaluate progress related to the implementation of the ECPF.

### 3.2.6 Conclusion

The discussion of these various instruments reveals that the impressive development of governance standards has not been matched by an equally impressive practice of governance transfer. The strong standards laid out in the Protocol on Democracy and Good Governance have rather been a “trap” for ECOWAS leaders, largely motivated by the success of ECOWAS in restoring the Kabbah government in Sierra Leone. But cases like Sierra Leone have been rather uncommon, where a government elected in free and fair democratic elections was subsequently deposed in a bloody coup d’état. It is not the democratic governments that need ECOWAS’s support, but rather the not-so-democratic leaders with their not-so-democratic constitutions. These are the cases that tend to cause trouble and where the 2001 Protocol has proven to be of little help. Still, ECOWAS has reacted in all major constitutional crises in its member states since the 1999/2001 protocols—with the potential exception of Guinea Bissau, which has been in a continuous constitutional crisis over the last 15 years.

**Figure 4: Governance Transfer by ECOWAS**

	Framework: Standards & Policies	Measures: Adoption & Application
Human Rights	•••	•
Democracy	••••	••
Rule of Law	••	—
Good Governance	•	—

The adoption and application of measures has been quite uneven. Among the various governance dimensions, democracy is most prominent, independently of the instruments we analyze. Heads of state have tended to rely on themselves: They decide to suspend “one of their peers” or send one of their own to mediate between rivaling factions. They ignore their own protocols if doing so suits them better. At the end of the day, among peers, everything is negotiable, including the meaning of governance standards. The promotion of democratic governance and human rights is thus tackled *within* ECOWAS but not *by* ECOWAS (or its institutions). The Com-

mission has tried to gain more autonomy and fight for a more bureaucratic and institutionalized approach that would also allow it to use a more differentiated set of instruments, but the Commission lacks capacities and support from its member states. The Court has also gained in stature, but it remains to be seen to what extent it can effectively enforce decisions against the will of member states, powerful or not.

We thus encounter a basic problem with the realization of the demanding governance standards within ECOWAS. The issue is not inconsistency in ECOWAS's treatment of its various member countries; all constitutional crises have been dealt with, and even election observer reports on Nigeria were quite critical. Instead, the consistent non-application of governance standards weakens the norms and will create cynical attitudes among practitioners and citizens. Nearly all political systems in the ECOWAS states are still far from realizing ECOWAS's governance standards, and some of the leaders who signed the 2001 Protocol rose to power through military coups. Nobody can reasonably claim to uphold norms by applying negative sanctions abroad while hiding governance problems at home. The increasingly grandiose designs create expectations that neither ECOWAS nor the member states can fulfill in the short term. Precisely when the innovative Mechanism for Conflict Prevention was introduced, for example, ECOWAS stopped undertaking military interventions or handed over these interventions to international actors with more expertise and resources (France in Côte d'Ivoire, United States in Liberia, United Kingdom in Sierra Leone). It is telling that only the European media were impressed by the public statement from Nigerian ECOWAS chairman following the election crisis in Côte d'Ivoire that ECOWAS would intervene militarily if necessary to install the democratically elected Ouattara government.

#### 4. Explaining Governance Transfer by ECOWAS: Some Preliminary Observations

In this section we will provide a discussion of possible explanatory variables influencing the reality of governance transfer in ECOWAS.

**International level:** ECOWAS's inception did not follow a template developed from somewhere else, even if international consultants participated in developing the Revised Treaty and the Mechanism for Conflict Prevention. On the contrary, much of what we find in the texts is home-grown and has inspired the development of norms at the continental level (African Union).

At the same time, it is undeniable that the emergence of ECOWAS is related to a more general shift in international norms toward the promotion of democracy, human rights, and rule of law by transnational actors and networks abroad, and to the growing importance of political conditionality in Africa since the early 1990s. It would be erroneous to see the introduction of governance standards as an exercise in mimicry. Rather West African leaders need external support—to a varying extent—to develop their countries, and they have realized that regional cooperation is highly appreciated in the international community. One explicit “target” of the ECPF is the group of “international stakeholders” and “development partners” (ECPF Article 7).

The importance of a context of political conditionality and donor pressure to introduce governance standards might explain why strict standards are less regularly transformed into a coherent set of policies and instruments. However, we have no evidence that any specific governance standard has resulted from direct donor pressure. It is also clear that the specific content of the standards is not aligned to the dominant donor discourse (this is most obvious in the initial lack of a traditional good governance agenda).

**Regional level:** Governance standards can be developed to select or screen new members in the accession process. When this is the case, the existing members in a regional arrangement are quite homogenous and basically fulfill these standards. Alternatively, governance standards can be developed in regional organizations that represent a more heterogeneous membership because these standards were irrelevant for membership in the first place. In this second category, of which ECOWAS is an example, standards might be developed because of a change in the international environment, the will of a strong hegemon (national level, see below), a massive governance change in the region, or unintended dynamics at the regional level.

The processes of political liberalization and democratization, which have affected practically the whole region since the early 1990s (and which were certainly not caused by regionalism), propelled a new generation of leaders into power in some countries and led to the defeat of incumbents in at least half of the ECOWAS member states. To understand why ECOWAS developed strong standards to protect democracy and the rule of law while simultaneously confining implementation to safeguards against military coups d'état, we have to look at the interests of the democratically elected leaders. Regional governance standards could lock in their fragile democratization processes and help them survive in office. What they feared most were their own armies, so they used the regional arrangements as powerful allies against their domestic enemies. Since their new democratic regimes needed time to consolidate, and the rule of law could not be built in one day, these leaders were not interested in a systematic regional monitoring of governance standards that would have exposed the many remaining deficiencies and weakened the legitimacy of their regimes. By the end of the 1990s, these leaders had obtained a critical majority within ECOWAS to elicit a change in governance standards (for the first development of this thesis, cf. Hartmann 2008), and they used this majority to push through the 1999 and 2001 Protocols.

Economic dynamics at the regional level have not been relevant for the timing, introduction, and implementation of governance standards. The stalling economic agenda did not “spill over” to governance issues. Indeed, we would argue that transnational security concerns have forced ECOWAS to deal with democracy, human rights, and governance issues at a time when they were not the main agenda. Democratically elected leaders supported by external actors seized the opportunity, and contingent factors such as Obasanjo's election to President contributed as well (see below).

Finally, an analysis of the ECPF should also examine the inter-organizational dynamics of ECOWAS. The ECOWAS Commission pushed the ECPF in order to strengthen its position in

policy-making and implementation *vis-à-vis* the heads of state and government—a view that also explains why much of the ECPF has remained a dead letter. Without the cooperation of national governments and administrations, and without sufficient resources to organize activities, the Commission cannot act.

**Domestic level:** A closer look at the hegemon Nigeria can also explain some of the development and implementation of governance standards. Development of governance standards was strongest when Nigerian leaders shared these concerns. During the Presidency of Olusegun Obasanjo (1999–2007), ECOWAS signed the crucial protocols and acted decisively on Togo. His successor Umaru Yar'Adua (2007–2010) had much less interest in foreign and regional affairs. When Yar'Adua died in office and Vice-President Goodluck Jonathan came into power, ECOWAS began to act strongly in Côte d'Ivoire. Coleman (2007) has analyzed ECOWAS's peacekeeping as primarily the attempt by Nigeria to gain international legitimacy for military interventions otherwise driven by its own national interests. In seeking to explain why specific policies and activities are enacted, it becomes quite obvious that without Nigerian military support and financial resources, very few instruments can be applied beyond electoral observation and diplomatic missions (Obi 2008). While the domestic politics of other member states has exerted less influence on ECOWAS's governance policies, the prevalent migration within the region and the high percentage of ECOWAS citizens living outside of their home countries has been a strong factor guiding the decisions by heads of state. The presidents of Mali, Burkina Faso, or Ghana, for example, will always consider the fate of their citizens living in Côte d'Ivoire before adopting strong governance-based sanctions against the neighboring government.

Finally, many states in the region remain fragile not only with regard to their regimes but also with respect to their state structures. The incapacity to implement policies might not necessarily result from political resistance, but rather from a lack of information or insufficient capacities to proceed. It is much easier for West African leaders to develop and agree on governance standards than to create the conditions for their full transfer into the realities of poorly developed administrative structures and, in some cases, largely illiterate populations.

## 5. Conclusion

Although the enthusiasm for governance transfer might have faded somewhat within ECOWAS over the past years, the organization remains an interesting object of research on governance transfer. The (especially intra-African) public debate sparked by the threat of an ECOWAS military invasion in Côte d'Ivoire has reminded everybody about the extraordinary authorities that ECOWAS leaders have granted themselves as a club of heads of state and government. The Côte d'Ivoire episode also reveals the many difficulties ECOWAS faces in formulating a credible threat and actually preparing a military invasion. It is nevertheless difficult to imagine that the course of events in Côte d'Ivoire—including the UN–French military action ousting Laurent Gbagbo—could have been the same without ECOWAS's immediate decision in early December 2010, after the two presidents claimed to have been elected and were sworn in the same day.



The attempt to map empirically the setting of governance standards within ECOWAS and their subsequent implementation has encountered two main difficulties. The first is the availability of data on many decisions taken by ECOWAS. Access to data is very limited, and it is near impossible to retrace decision-making processes within the organization if the participating individuals no longer work at the headquarters. ECOWAS's failure to systematically store data has made it especially difficult to assess differences between the adoption of a policy or a decision and its actual application on the ground. Many decisions are taken during the summits of heads of state and not sufficiently formalized so that researchers can later assess to what extent the decisions have been executed.

A second challenge is methodological. It is possible for governance standards to be quite effective without any policy or measures implemented by ECOWAS, since the mere existence of institutional rules might have a self-enforcing effect. One should therefore be cautious in conflating the relative inactivity of ECOWAS organs with a lack of enforcement of the many governance standards that the organization has established. To give just one example: The 2001 Protocol on Democracy and Good Governance has been rightly criticized for its lack of appropriate instruments to deal with constitutional crises. It could not hinder military coups d'état in Niger, Guinea-Bissau, or Guinea. But at the same time, it was quite effective in protecting the democratically elected ECOWAS heads of state, that is, those who lived up to the spirit of the protocol: no coup attempt ever occurred in Benin, Cape Verde, Ghana, or Senegal.<sup>11</sup>

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<sup>11</sup> The recent military coup d'état in Mali is the first exception to this rule, as the country had been a champion of democratization in the region over the last two decades.

## Literature

- Abass, Ademola* 2000: The New Collective Security Mechanism of ECOWAS: Innovations and Problems, in: *Journal of Conflict and Security Law* 5: 2, 211-229.
- Adebajo, Adekeye* 2002: *Building Peace in West Africa. Liberia, Sierra Leone and Guinea-Bissau*, Boulder, CO.
- Adebajo, Adekeye* 2004: Pax West Africana? Regional Security Mechanisms, in: Adebajo, Adekeye/Rasid, Ismail (Eds.): *West Africa Security challenges. Building peace in a troubled Region*, Boulder, CO, 291-318.
- Adepoju, Aderanti/Boulton, Alistair/Levin, Mariah* 2007: Promoting integration through mobility: Free movement and the ECOWAS Protocol (UNHCR. Policy Development and Evaluation Service: Research Paper No. 150), Geneva.
- afrol News* 2009: ECOWAS delegation to Guinea-Bissau, 3 March 2009, in: <http://www.afrol.com/articles/32581>, last accessed 27 November 2012.
- Aning, Emmanuel Kwesi* 1999: Eliciting compliance from warlords. The ECOWAS experience in Liberia, 1990-1997, in: *Review of African Political Economy*, 26: 81, 335-348.
- Aning, Emmanuel Kwesi* 2000: Towards the new millennium: ECOWAS's evolving conflict management system, in: *African Security Review*, 9: 5/6, 50-63.
- Atuobi, Samuel* 2010: *Implementing the ECOWAS Conflict Prevention Framework: Prospects and Challenges* (Kofi Annan International Peacekeeping Training Centre Policy Brief), Accra.
- Augel, Johannes* 2003: Guinea-Bissau 2002, in: Institut für Afrika-Kunde/Hofmeier, Rudolf/Mehler, Andreas (Eds.): *Afrika-Jahrbuch – 2002. Politik, Wirtschaft und Gesellschaft in Afrika südlich der Sahara*, Opladen, 127-131.
- Bach, Daniel* 2004: The Dilemmas of Regionalization, in: Adebajo, Adekeye/Rashid, Ismail (Eds.): *West Africa's Security Challenges*, Boulder, CO, 69-89.
- Bellamy, Alexander J./Williams, Paul D.* 2011: The New Politics of Protection? Côte d'Ivoire, Libya and the Responsibility to Protect, in: *International Affairs* 87: 4, 825-850.
- Börzel, Tanja A./van Hüllen, Vera/Lohaus, Mathis* 2013: *Governance Transfer by Regional Organizations. Following a Global Script?* (SFB-Governance Working Paper 42), Berlin.
- Börzel, Tanja A./van Hüllen, Vera/Breschke, Carina/Lohaus, Mathis/Striebinger, Kai* 2011: *Governance Transfer by Regional Organizations. Research Guide for Case Study Authors*, [http://www.sfb-governance.de/en/teilprojekte/projektbereich\\_b/b2/projektbeschreibung/B2\\_Analytical\\_Framework.pdf](http://www.sfb-governance.de/en/teilprojekte/projektbereich_b/b2/projektbeschreibung/B2_Analytical_Framework.pdf), last accessed 25 February 2013.
- Butty, J.* 2009: ECOWAS Pleased with Guinea-Bissau Democratic Transition Process, in: <http://www.voanews.com/content/a-13-2009-03-20-voa6-68798727/411956.html>, last accessed 27 November 2012.
- Cernicky, Jan* 2008: *Regionale Integration in Westafrika. Eine Analyse der Funktionsweise von ECOWAS und UEMOA*, Bonn.
- Coleman, Katharina P.* 2007: *International Organizations and Peace enforcement: The Politics of International Legitimacy*, Cambridge.
- Déme, Mourtada* 2005: *Law, morality and international armed intervention. The United Nations and ECOWAS in Liberia*, New York, NY.

- Ebeku, Kaniye S. A.* 2005: The succession of Faure Gnassingbe to the Togolese presidency. An international law perspective. Uppsala.
- Ebobrah, Solomon T.* 2008: A Critical Analysis of the Human Rights Mandate of the ECOWAS Community Court of Justice (Danish Institute for Human Rights: Research Paper), Copenhagen.
- Ebobrah, Solomon T.* 2010: Critical Issues in the Human Rights Mandate of the ECOWAS Court of Justice, in: *Journal of African Law* 54: 1, 1-25.
- Ebobrah, Solomon T./Tanoh, Armand (Eds.)* 2010: Compendium of African Subregional Human Rights Documents, Pretoria.
- ECOWAS 1975: Treaty of the Economic Community of West African States.
- ECOWAS 1978: ECOWAS Protocol on Non-Aggression.
- ECOWAS 1979: Protocol Relating to Free Movement of Persons, Residence and Establishment.
- ECOWAS 1981: ECOWAS Protocol on Mutual Assistance in Defence.
- ECOWAS 1986: Protocol on the Right of Residence (A/SP/.1/7/86).
- ECOWAS 1990: Protocol on the Right of Establishment (Protocol A/SP/.2/5/90)
- ECOWAS 1991-a: Declaration of Political Principles.
- ECOWAS 1991-b: Protocol A/P.1/7/91 relating to the Community Court of Justice.
- ECOWAS 1993: Revised Treaty of the the Economic Community of West African States (ECOWAS).
- ECOWAS 1999: Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.
- ECOWAS 2001-a: Protocol A/SP.1/12/01 on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.
- ECOWAS 2001-b: Protocol on the Fight Against Corruption (A/SP.3/12/01).
- ECOWAS 2005-a: Decision A/DEC. 1/01/05 relating to the adoption of the ECOWAS Gender policy and all its instruments.
- ECOWAS 2005-b: Supplementary Protocol A/SP.1/01/05 amending Protocol A/P.1/7/91 relating to the Court of Justice.
- ECOWAS 2006: Supplementary Protocol A/SP.2/06/06 on the Court of Justice.
- ECOWAS 2008-a: ECOWAS Conflict Prevention Framework (Regulation MSC/REG.1/01/08).
- ECOWAS 2008-b: ECOWAS Handbook on Election Observation.
- Engels, Jan Niklas* 2005: *Wie der Vater so der Sohn ? Togo nach den Präsidentschaftswahlen 2005. Szenarien der politischen Entwicklung*, Bonn.
- Ero, Comfort* 2000: *ECOMOG: A model for Africa? (Monography 46 – Building stability in Africa: Challenges for the new millennium, February 2000 ISS)*, Johannesburg.
- Francis, David J.* 2001: The politics of economic regionalism. Sierra Leone in ECOWAS. Aldershot.
- Francis, David J.* 2005: Expanding the frontiers of regional integration: regional economic and security dynamics, in: Cline-Cole, Reginald/Robson, Elsbeth (Eds.) (2005): *West African Worlds: Paths Through Socio-Economic Change, Livelihoods and Development*, Prentice Hall, 129-150.
- Frempong, Alexander Kaakyire Duku* 2005: The Internal and Regional Dynamics of the Cycle of War and Peace in Guinea-Bissau (Codesria International Colloquim: Lusophone Africa – History, Democracy and Integration., Luanda, 28-30 April 2005), Luanda.

- Gaillard, Gérald* 1999: Guinee-Bissau: un pas douloureux vers la démocratie, in: *Afrique Contemporaine*, 191, 43–57.
- Gandois, Hélène* 2009: From Ploughshare to Word: Regionalism in Africa, Saarbrücken.
- Hartmann, Christof* 2000: Ende des Sonderwegs. Die Elfenbeinküste nach dem Putsch, in: *der überblick* 36: 1, 84–88.
- Hartmann, Christof* 2008: Regional Organizations and the Promotion of Democracy in Sub-Saharan Africa, in: *Debiel, Tobias/Korte, Karl-Rudolf/Schmitt-Beck, Rüdiger* (Eds.): *Governance and Legitimacy in a Globalized World*, Baden-Baden, 207–227.
- International Crisis Group* 2001: Sierra Leone: time for a new military and political strategy (Africa Report No. 28) Brussels.
- International Crisis Group* 2009: Guinea: The Transition Has Only Just Begun (Africa Briefing No. 58), Brussels.
- Kabia, John M.* 2009: Humanitarian Intervention and Conflict Resolution in West Africa, Aldershot.
- Kohnert, Dirk* 2005: Togo: Ein Lehrstück fehlgeleiteter Demokratisierung (Institut für Afrikakunde: Afrika im Blickpunkt No. 1), Hamburg.
- Körner, Peter* 1996: Macht- und Interessenpolitik in der ECOWAS-Region und der Krieg in Liberia. Die politische Dimension regionaler Integration in Westafrika (Institut für Afrikakunde: Hamburger Beiträge zur Afrikakunde Bd.51), Hamburg.
- Korte, Werner* 2001: Kriegspartei oder Friedensstifter. ECOMOG in Liberia, in: *Peripherie*, 21: 84, 48–69.
- Magalhães Ferreira, Patricia* 2004: Guinea-Bissau – Between conflict and democracy, in *African Security Review* 13: 4, 44–56.
- Massey, Simon.* 2004: Multi-Faceted Mediation in the Guinea-Bissau Civil War, in: *Scientia Militaria* 1: 32, 76–95.
- Mbeki, Thabo* 2011: What the World Got Wrong in Côte d’Ivoire, in: *Foreign Policy*, 29 April 2011.
- Mehler, Andreas* 2002: Rebellion und Putschversuch in der Côte d’Ivoire. Westafrika vor seiner größten Herausforderung (Stiftung Wissenschaft und Politik Aktuell No. 39), Hamburg.
- Nwauche, Enyinna S.* 2011: Enforcing ECOWAS Law in West African National Courts, in: *Journal of African Law* 55: 2, 181–202.
- Nwogu, Nneoma* 2007: Regional Integration as an Instrument of Human Rights. Reconceptualizing ECOWAS, in: *Journal of Human Rights* 6: 3, 345–360.
- Obi, Cyril I.* 2008: Nigeria’s foreign policy and transnational security challenges in West Africa, in: *Journal of Contemporary African Studies* 26: 2, 183–196.
- OECD/ African Development Bank* 2012: Stocktaking of Business Integrity and Anti-Bribery Legislation, Policies and Practices in Twenty African Countries, Paris: OECD Publishing.
- Olonisakin, Funmi* 2000: Reinventing peacekeeping in Africa. Conceptual and legal issues in ECOMOG operations, The Hague.
- Olonisakin, Funmi* 2009: Windows of opportunity for conflict prevention. Responding to regional conflict in West Africa, in: *Conflict, Security and Development* 4: 2, 181–198.
- Sall, Alioune* 2011: La Justice de l’Intégration. Reflexions sur les institutions judiciaires de la CEDEAO et de l’UEMOA, Dakar.
- Schedler, Andreas* 2002: The Menu of Manipulation, in: *Journal of Democracy* 13: 2, 36–50.

- Sperling, Sebastian* 2009: Niger auf dem Weg zurück zur Diktatur – Härtetest für die ECOWAS, Bonn.
- Tuck, Christopher* 2000: "Every car or moving object gone". The ECOMOG intervention in Liberia, in: *African Studies Quarterly* 4: 1, 1-16.
- UN Security Council* 2011: Resolution 1975. Adopted by the Security Council at its 6508th meeting, on 30 March 2011.
- Van den Boom, Dirk* 1996: Regionale Kooperation in Westafrika. Politik und Probleme der ECOWAS, Hamburg.
- Van Walraven, Klaas* 1999: The pretence of peace-keeping. ECOMOG, West Africa and Liberia, 1990-1998, The Hague.
- Wegemund, Regina* 1999: Die CPLP und der Bürgerkrieg in Guinea-Bissau, in: *Internationales Afrikaforum* 35: 2, 165–176.
- Williams, Paul D./Haacke, Jürgen* 2008: Security culture, transnational challenges and the Economic Community of West African States, in: *Journal of Contemporary African Studies*, 26: 2, 119–136.
- Zounmenou, D.* 2009: Double Political Assassinations in Guinea Bissau: What Future For The Country? (Institute for Security Studies: ISS Seminar Report), Johannesburg.

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