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FOCUS

Democracy and the Rule of Law: A New Push for European Values

Il Focus contiene contributi elaborati a seguito della riflessione realizzata nel Seminario conclusivo dello Jean Monnet Module Eu-Draw (2022-2025) "Democracy and the Rule of Law: A New Push for European Values", tenutosi presso l'Università degli Studi di Salerno (1 aprile 2025)

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VALUES IN THE EU EXTERNAL ACTION: MECHANISMS OF IMPLEMENTATION AND THEIR OUTCOMES

Stefania Kolarz *

SUMMARY: 1. Introductory remarks. – 2. Values in the EU external action. – 3. The role of values in the selection of EU partners. – 3.1. The EU enlargement policy. – 3.2. EU agreements with like-minded partners. – 4. Values as an object of promotion and protection in the EU external action. – 4.1. The EU neighbourhood policy. – 4.2. The EU trade policy. – 4.3. The EU missions. – 4.4. Other instruments. – 5. Conclusions.

1. Introductory remarks

In 2012, the EU was awarded the Nobel Peace Prize “for over six decades contributed to the advancement of peace and reconciliation, democracy and human rights in Europe”¹. Yet its activity aimed at promoting and protecting these values extend far beyond the continent’s borders, with the organisation aiming to expand them globally. Nevertheless, particularly in recent years third countries mostly from the so-called Global South have increasingly accused the EU of employing double standards². This state of affairs gives rise to the question of what mechanisms the EU uses in its external action to promote its values and, secondly, what are the factors influencing the effectiveness of the EU’s activities in this regard. A priori, it seems that the EU endorses values in its external activities using promotion and protection mechanisms, co-operating with countries sharing its values and trying to convince those who are not. The tools it uses are not typically stand-alone instruments; rather, they are elements of various EU policies. Simultaneously, irrespective of the mechanisms employed, the EU’s endeavours are not invariably efficacious. This phenomenon may be explained by internal factors pertaining both to the

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¹ *Nobel Peace Prize 2012*, www.nobelprize.org.

² M. GWYN JONES, ‘*Double standards’ undermine EU legitimacy in Global South: Human Rights Watch chief*, in *Euronews*, published online 26 October 2023, www.euronews.com.

intra-EU political dynamics³, as well as external factors encompassing the volition of third countries and their distinct socio-economic and international situations.

The available researches focus primarily on specific cases⁴, but there is a lack of more cross-sectional studies. This article will attempt to fill this gap and address the mechanisms of EU value exporting from a more bird's eye view. To map the mechanisms used by the EU, the formal method of legal science will be used first, especially the analysis of the texts of primary and secondary EU law. While this may result in conclusions regarding the completeness and comprehensiveness of the EU toolbox, it seems insufficient to identify the factors that influence their assessment. Consequently, in addition to the content of normative acts, the text will also include some references to the political situation of individual countries and, if needed, to the EU itself. Additionally, the Freedom House Index⁵ will be used as an ancillary instrument to illustrate the progress achieved by EU partners in implementing the shared values. Despite not being an EU tool, this ranking is conducted for all countries worldwide in the application of the same methodology, in contrast to the reports prepared by the European Commission, which concern only specific (groups of) countries, e.g. the EU candidates. The reference to the findings of the Freedom House Index is thus intended to ensure greater comparability and consistency in the assessment of EU partners. However, it should be noted that it provides a less targeted analysis than the Commission's documentation, which will therefore be referred to supplementarily.

Given the broad nature of the topic and its scope, it is imperative to approach the present paper as an introduction to further in-depth research. This text is the result and presentation of a mapping exercise. Due to the volume limitations of an article, it cannot pretend to be an exhaustive monograph on the subject. Furthermore, the static reflection of a constantly evolving reality poses a significant challenge. It is thus imperative to acknowledge that while the legal foundations may be expected to remain relatively stable, potentially undergoing some minor adjustments over time, novel challenges that were not foreseen in this text may emerge in the Union's external action, thereby affecting the efficacy of the EU promotion and protection of values in its foreign policy, as well as its narratives⁶. Nonetheless, research in this domain is important to uncover the constraints imposed by the EU's actions and potential avenues for surmounting these challenges, thereby facilitating more effective values mainstreaming in EU external action.

This article consists of 5 sections. The following part (2) will discuss the values of the EU, their nature, and role played in the EU's external action. The next two segments will

³ For instance, the EU's inconsistent reaction of democratic backsliding of some of its Member States. See e.g. K. LANE SCHEPPELE, J. MORJIN, *Money for nothing? EU institutions' uneven record of freezing EU funds to enforce EU values*, in *Journal of European Public Policy*, 2025, no. 2, pp. 474-497.

⁴ See e.g. M. RABINOVYCH, A. PINTSCH, *Political conditionality as an EU foreign policy and crisis management tool. The case of EU wartime political conditionality vis-à-vis Ukraine*, in *Journal of European Integration*, 2025, no. 4, pp. 491-512.

⁵ Freedom House is an American organisation set in 1941 to defend democracy worldwide, cf. www.freedomhouse.org.

⁶ See e.g. M. RABINOVYCH, Z. NOVAKOVA, *"Paradigmatic change" with much continuity? EU's approach to values in external policies in the age of contestation*, in *Global Affairs*, 2019, no. 1, pp. 73-79.

focus on two fundamental roles played by EU values, namely their use as criteria for selecting partners (3) and the subject of promotion and protection (4). Within these parts, the individual mechanisms used by the EU to implement these roles will be discussed. The last section (5), containing conclusions, will focus on the factors influencing the effectiveness of the promotion and protection of values in the EU's external action.

2. Values in the EU external action

It is a widely acknowledged fact that the EU is founded on a set of values. They are outlined in Article 2 of the Treaty on the European Union (hereinafter the TEU), which points to respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities as fundamentals to the Community. While the EU does not have monopoly on them, as those values also guide – more or less explicitly – the activity of other international formats, primarily the UN, but also the CSCE (OSCE)⁷, what is unique for the EU are the roles the Union is supposed to attribute to those values in its external action. According to the 3(5) TEU “[i]n its relations with the wider world, the Union shall *uphold and promote* its values and interests and contribute to the protection of its citizens”⁸. Article 21(1) of the same act adds that “[t]he Union’s action on the international scene shall be *guided* by the principles which have inspired its own creation, development and enlargement, and *which it seeks to advance* in the wider world”⁹. While all three aforementioned articles contain slightly different catalogues of values¹⁰, any discrepancies may be explained by the context of individual provisions and their purpose. The common denominators among the EU values are, however, democracy, the rule of law, and respect for human rights, and therefore they will constitute a key point of reference for further analysis. The TEU provisions attribute them numerous functions.

First and foremost, the values constitute guidelines for the EU's action on the international scene. This is indicated primarily by the above-mentioned Articles 3(5), though indirectly, and 21(1) TEU but also repeated by Article 23¹¹ of the same act. A more insightful examination of the TEU with a particular focus on values enables unpacking this function. Accordingly, values as guidelines for EU external action:

⁷ See e.g. Chapter I of the UN Charter on Purposes and Principles, VII of the Helsinki Final Act.

⁸ Emphasis added.

⁹ Emphasis added.

¹⁰ Article 3(5) TEU mentions peace, security, the sustainable development, solidarity and mutual respect, free and fair trade, eradication of poverty, human rights (in particular the rights of the child), as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter. Article 21(1), in turn, points to democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

¹¹ Article 23 TEU: *The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1.*

- 1) serve to delineate the EU's external action goals (and those are to uphold and promote its values in its relations with the wider world, as stated in Article 3(5) TEU),
- 2) indicate how the EU should endeavour to achieve those goals (in line with its values, according to Article 21(3)),
- 3) constitute the principles it shall defend (Article 21(2)(a) TEU).

Although this may initially appear to constitute a vicious circle, what emerges from this depiction is the centrality of EU values as a key object of promotion and protection within the Union's external action. While the aforementioned roles shall apply to the EU's policies worldwide, they may also serve to differentiate the EU partners on the level of bilateral cooperation, as their selection is predicated on the EU values. This follows from Article 21(1) TEU, according to which the Union shall seek to develop relations and build partnerships with third countries and organisations¹² which share the principles which have inspired its own creation. Furthermore, and that is where delimitation between what is internal and external to the EU blurs, the values play significant role in the enlargement policy, where they serve as a ticket to join the exclusive club of the EU member states¹³. The selection of partners based on shared values oftentimes serves further values promotion (in co-operation with like-minded partners¹⁴) or protection (against those who do not share the aforementioned values). These endeavours are carried out by the Union through a wide range of its external policy instruments. The EU's toolbox in this respect includes instruments related to its enlargement policy, neighbourhood policy, particular provisions of the agreements with like-minded countries, trade and development policies¹⁵, missions (EOMs – election observation missions, CSDP – Common Security and Defence Policy civilian missions), sanctions. Importantly, in most cases – i.e. apart from implementing some particular trade regimes – their application is not mutually exclusive. The combination of these measures makes the Union's approach toward particular countries or situations more flexible, allowing for designing differentiated tactics through positive and negative conditionality¹⁶.

¹² Due to space constraints, this text will focus solely on states, excluding international organisations. There is no doubt, however, that values also play a significant role in the selection of partners from among the latter. While the EU closely cooperates with such organisations as the UN and the OSCE, which is confirmed by the wording of its treaties, it is difficult to find any interactions with the Eurasian Union.

¹³ On basis of Article 49 TEU, any European State which respects the EU values and is committed to promoting them may apply to join it.

¹⁴ The term "like-minded partners" is not formally defined in EU law, but appears in EU strategic documents, such as the EU Global Strategy (2016) and the EU Strategic Compass (2022), where it is used to refer to the Union's key international allies. These typically include countries such as the United States, Canada, Japan, Australia, New Zealand, South Korea, and the United Kingdom, among others. It is generally used to describe states or international organisations that share and promote core values and principles aligned with those of the European Union, including democracy, the rule of law, respect for human rights, a commitment to a rules-based international order, and support for effective multilateralism.

¹⁵ EU development policy will be discussed within the framework of trade policy and the NDICI, with which it is linked.

¹⁶ Positive and negative conditionality, also known in EU jargon as "carrots and sticks", refer to offering rewards and benefits to partners who fulfil conditions set by the EU, or imposing sanctions on those who fail to comply.

3. The role of values in the selection of EU partners

The EU usually applies the logic of concentric circles, trying to build a ring of friends at its (continental) borders and adopting a more relaxed approach to further countries. There are, however, exceptions to this rule, mainly due to the justified inability of the EU to cooperate with regimes violating its values, e.g. Russia, Belarus, or – more recently – Türkiye¹⁷. All of these states were granted the opportunity by the European Union to deepen relations grounded in its core values (e.g. it was Russia's decision to decline the offer of participation in European Neighbourhood Policy¹⁸, Belarus used to participate in Eastern Partnership, while the latter even got a candidate status). However, this prospect was later undermined by political decisions of their regimes, systemic breaches of democratic standards, the rule of law, and human rights, and, in certain cases, the perpetration of international crimes. This already indicates that a significant determinant of the effectiveness of values promotion by the EU lies in the conditions present on the other side – within the state that is expected to adopt and share those values.

In terms of using values as a key benchmark to select partners, the enlargement policy seems to be of the greatest importance in the EU toolbox. Respect for the values and their implementation constitute one of determinants of the EU accession paces. Yet, the aforementioned function demonstrates itself also in the shape of agreements between the EU (and its Member States) with its partners. In this case, the degree of democratisation, rule of law, and respect for human rights of the country entering into contractual relations with the EU may influence the shape of the provisions of the act. In the case of agreements with like-minded states, agreements will mainly point to a joint commitment to promoting values; in the case of countries where their respect is more problematic – to political conditionality aimed at persuading the partner to respect them¹⁹. It is also noteworthy that in this respect, the role of values as a key to selecting the partners overlaps with being an object of promotion.

3.1. The EU enlargement policy

The EU explicitly indicates that it also benefits from the enlargement “as it means [...] the promotion of democracy, rule of law, and human rights [and] an investment in peace and security in Europe”²⁰. The enlargement policy thus also fulfils the goal of promotion of the EU values. Their further – and better known – role is reflected in the enlargement methodology. First and foremost, the values of “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” open the listing of the Copenhagen Criteria (the EU accession criteria) already set in the

¹⁷ See e.g. European Parliament, *Report on the 2023 and 2024 Commission reports on Türkiye*, www.europarl.europa.eu.

¹⁸ H. HAUKKALA, *Explaining Russian Reactions to the European Neighbourhood Policy*, in R.G. WHITMAN, S. WOLFF (eds.), *The European Neighbourhood Policy in Perspective. Context, Implementation and Impact*, London, 2010, pp. 161-177.

¹⁹ For this reason, the latter group shall be analysed within the framework of the following section.

²⁰ European Union, *EU Enlargement*, www.european-union.europa.eu.

90s²¹. Moreover, according to the new enlargement methodology adopted by the Commission in 2020, the so-called fundamentals cluster, which comprises, among others rule of law²², opens first and closes last; it thus not only defines the pace of the accession process²³, but determines its outcome as no country may join the EU until it has successfully concluded all the negotiation chapters that make up the clusters (until it satisfies all conditions). While to obtain candidate status a country does not need to fully meet all the criteria, it should demonstrate a certain minimum level of respect for them and the willingness to introduce reforms aimed at their full implementation, what seems to become increasingly reversible, and thus problematic, nowadays.

Last years, it appears that the prospect of EU accession holds the least and least allure for candidate countries which, as indicated by the Freedom House Index, are not demonstrating signs of advancement. Actually, in the majority of cases, there is an observable regression. Türkiye, Serbia, Bosnia and Herzegovina, Moldova, Ukraine, and Georgia regress with scores ranging from 33/100 – not free in case of Türkiye, to 51-60/100 – partly free in other cases. Montenegro and Albania keep respectively 69 and 68/100 – partly free scores and North Macedonia with 67/100 – partly free has been the only progressing country in 2025²⁴. Although the data cited from the Index offer a general overview and precise details regarding the situation of respect for EU values by individual candidate countries are to be found in the Commission reports that provide more targeted information in this respect, both sources indicate insufficient progress made by the countries assessed²⁵, especially Türkiye, Serbia and Georgia²⁶.

While searching for explanation of this state of affairs it is hard to draw any general conclusions on the societal level. E.g. in a survey by IRI - International Republican Institute, published in April 2023, 75% of Georgians fully and 14% somehow supported the EU integration²⁷. The IRI opinion poll on Western Balkans from Spring 2024 demonstrated, in turn, that popular support for joining the EU among Serbs was decreasing

²¹ European Union, *Accession criteria (Copenhagen criteria)*, www.eur-lex.europa.eu.

²² European Commission, *EU accession process step by step*, October 2022, www.enlargement.ec.europa.eu.

²³ European Commission, *Revised enlargement methodology: Questions and Answers*, 5 February 2020, www.enlargement.ec.europa.eu.

²⁴ Freedom House Index, www.freedomhouse.org.

²⁵ Given the ongoing armed conflict within its borders, Ukraine is referenced here solely for the purpose of maintaining order, and when discussing the precipitous decline of its score in the Freedom House Index, the particularly challenging circumstances it currently faces should be taken into account.

²⁶ Commission Staff Working Document, *Türkiye 2024 Report*, Accompanying The Document *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of Regions 2024 Communication on EU Enlargement Policy*, of 30 October 2024, SWD(2024) 696 Final; Commission Staff Working Document, *Serbia 2024 Report*, Accompanying The Document *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of Regions 2024 Communication on EU Enlargement Policy*, of 30 October 2024, SWD(2024) 695 Final; Commission Staff Working Document, *Georgia 2024 Report*, Accompanying The Document *Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of Regions 2024 Communication on EU Enlargement Policy*, of 30 October 2024, SWD(2024) 697 Final.

²⁷ International Republican Institute, *National Public Opinion Survey of Residents of Georgia*, March 2023, www.iri.org.

– at the level of 40%, with 34% against joining the Union²⁸. What is less doubtful though, is that the EU accession is becoming less appealing to the ruling elites, as the EU demands democracy from its candidate countries, and as time passes, it becomes increasingly challenging for them to transfer power to successors. The authorities of candidate countries may thus deliberately sacrifice the EU integration to benefit of their particular interests (e.g. Georgia²⁹).

In this regard, the most significant instrument of the EU's influence on these countries seems to be blocking their accession. However, as their authorities may not be particularly inclined to join its ranks (especially if they have alternative powerful partners), the efficacy of this mechanism may be doubtful. What is left in the EU toolbox though is suspension of financial assistance granted to its partners. First, one may point to IPA – Instrument for Pre-accession Assistance, a financial tool to support the reforms in candidate countries from Western Balkans and Türkiye. The regulation (EU) 2021/1529 establishing the Instrument for Pre-Accession assistance (IPA III)³⁰ enumerates, in the first place among many objectives of the instrument strengthening the rule of law, democracy, the respect of human rights and fundamental freedoms³¹. According to Article 8(3) “assistance shall be differentiated in scope and intensity according to performance of the beneficiaries [...], in particular as regards their commitment to and progress in implementing reforms [...]”. Even more importantly, Article 8(4) states that in making such an evaluation to decide on the scope of the assistance “particular attention shall be paid to the efforts made in the fields of the rule of law and fundamental rights, democratic institutions and public administration reform, as well as economic development and competitiveness”. Should the assessment indicate a “significant regression or persistent lack of progress”, the assistance may be “modulated” (limited) accordingly³². However, in some cases even this will not work. This is illustrated by the case of Georgia, which – despite its EU candidate status – uses slightly different financial mechanisms, which will be discussed later within the framework of the EU Neighbourhood Policy. In November 2024 its Prime Minister Irakli Kobakhidze declared that Georgia would not begin EU accession talks until 2028 and during this period, the country will also decline any EU financial assistance, as “European politicians and bureaucrats use grants and loans as a form of blackmail” and that for Tbilisi “it is unacceptable to treat EU integration as a form of charity”³³. In such a case another EU instrument of influencing the authorities of backsliding countries (not limited to candidates though), is imposing sanctions. In this context, the EU applied them only in the case of representatives of the Georgian Dream and some people associated with

²⁸ A. PETRUSEVA, *Balkan Support for EU Accession High, Except in Serbia – Survey*, in *Balkan Insight*, published online 14 May 2024, www.balkaninsight.com.

²⁹ S. KOLARZ, W. WOJASIEWICZ, *Authoritarianism on the Rise in Georgia*, *PISM Bulletin*, n. 53 (2554), published online 9 May 2025, www.pism.pl.

³⁰ Regulation (EU) 2021/1529 of the European Parliament and of the Council *establishing the Instrument for Pre-Accession assistance (IPA III)*, of 15 September 2021, in OJ L 330, of 20 September 2021, pp. 1-26.

³¹ *Ibid.*, Article 3(2)(a).

³² *Ibid.*, Article 8(5).

³³ W. GÓRECKI, *Georgia is suspending its EU integration proces*, *OSW Analyses*, published online 29 November 2024, www.osw.waw.pl.

the ruling camp, but the broader application of restrictions against Georgia was prevented by the lack of unanimity of EU countries required to impose sanctions³⁴.

An additional issue that arises in the context of adopting EU values by candidate countries, e.g. Moldova or Georgia, is the content of the EU values that in some aspects (e.g. gender) may be either too progressive for their societies or portrayed as such by EU opponents disseminating disinformation³⁵. In this respect, as well as in many others, the EU's cooperation with the so-called "like-minded" countries looks very different.

3.2. EU agreements with like-minded partners

In the context of values in the European Union's external action, it is also worth noting the agreements concluded with like-minded partners. Although this category is less frequently discussed than agreements with countries to which the EU applies political conditionality in trade or development cooperation, it remains relevant from the perspective of value promotion. In those cases the partners appear to operate under the assumption that provisions aimed at safeguarding values would remain useless in practice, given the high standards of protection they have already adopted. For example, in CETA with Canada, provisionally applicable since 2017, the EU did not provide for this mechanism, at the request of the EU partner who claimed this would not be needed³⁶. Reference to democracy, human rights, and the rule of law is thus limited to the preamble where the parties recognise the importance thereof for the development of international trade and economic cooperation³⁷, as well as included in a separate agreement between them – Strategic Partnership Agreement³⁸.

More extensive references are included in two agreements guiding EU-Japan relations – the Economic Partnership Agreement and the Strategic Partnership Agreement. The former confirms commitment to principles set in UN Charter and Universal Declaration of Human Rights (preamble) and provides for suspension of trade preferences towards partner's companies if the partner is in breach of human rights³⁹. The Strategic Partnership Agreement, in turn, refers to values of democracy, rule of law, and human rights as shared fundamental values already in Article 1 which enumerates, among the goals of the agreement, to "contribute jointly to the promotion of shared values and principles, in particular democracy, the rule of law, human rights and fundamental freedoms"⁴⁰.

³⁴ W. WOJTASIEWICZ, *Georgian Dream Grabs All the Power*, *PISM Bulletin*, n. 18 (2519), published online 19 February 2025, www.pism.pl.

³⁵ S. KOLARZ, *Under Russian Influence: Challenges and Future Directions for Armenia, Georgia and Moldova*, to be published as a report of The Opportunity Institute for International Affairs, Warsaw, 2025.

³⁶ *Idem*.

³⁷ *Comprehensive Economic and Trade Agreement (CETA) between Canada, of the one part, and the European Union and its Member States, of the other part*, in OJ L 11, of 14 January 2017, pp. 23-1079.

³⁸ K.L. MEISSNER, L. MCKENZIE, *The paradox of human rights conditionality in EU trade policy: when strategic interests drive policy outcomes*, in *Journal of European Public Policy*, 2019, no. 9, pp. 1273-1291.

³⁹ *Agreement between the European Union and Japan for an Economic Partnership*, in OJ L 330, of 27 December 2018, pp. 3-899, Article 8.13 and 8.19.

⁴⁰ *Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Japan, of the other part*, OJ L 216, of 24 August 2018, pp. 4-22, Article 1(1)(d).

According to Article 2 this shall be done in international fora. In this regard, “the Parties shall cooperate and coordinate, where appropriate, in promoting and realising those values and principles, including with or in third countries”⁴¹.

Similarly, the Free Trade Agreement between the European Union and New Zealand in its preamble highlights that the shared values are the fundament of their cooperation⁴². Those values are mentioned first and foremost in Article 6 of the Partnership Agreement on Relations and Cooperation between the EU and its Member States, and New Zealand where they undertake to promote democratic values, human rights, and the rule of law and collaborate on and coordinate, where appropriate, in their practical advancement, including in third countries⁴³.

While the aforementioned cases are only examples, they illustrate the general practice of the EU’s more relaxed approach to conditionality in the case of countries committed to maintaining a high level of democracy, the rule of law, and respect for human rights⁴⁴, and shifting focus to joint actions to promote them worldwide. For this purpose, the EU has, however, more extensive toolbox.

4. Values as an object of promotion and protection in the EU external action

The values may be promoted and protected by the EU in its external action through its neighbourhood policy, trade and development policies, missions (civilian, to some extent also military, election observation), as well as other instruments, such as sanctions or restraining visa liberalisation regime.

4.1. The EU neighbourhood policy

In line with Article 8(1) TEU, the EU shall develop a special relationship with neighbouring countries founded on its values. Within the framework of the European Neighbourhood Policy initiated in 2004, three elements should be distinguished in this regard: the Union for the Mediterranean (2008), the Eastern Partnership (dating back to 2009, with half of its members – Ukraine, Moldova, and Georgia – being currently also EU candidate countries) and NDICI – Neighbourhood, Development and International Cooperation Instrument, related thereto and put in place in 2021.

The development of conditionality within the Union for the Mediterranean has had its vicissitudes⁴⁵. The Euro-Mediterranean Partnership, launched in 1995 as part of the so-

⁴¹ Ibid., Article 2(2).

⁴² *Free Trade Agreement between the European Union and New Zealand*, OJ L 2024/866, of 25 March 2024.

⁴³ *Partnership Agreement on Relations and Cooperation between the European Union and its Member States, of the one part, and New Zealand, of the other part*, OJ L 321, 29 November 2016, pp. 3-30.

⁴⁴ All of these countries are rated as free in the Freedom House Index. Canada scored 97/100, Japan – 96/100, New Zealand – 99/100.

⁴⁵ E. LANNON, K.M. INGLIS, T. HAENEBALCKE, *The Many Faces of EU Conditionality in Pan-Euro-Mediterranean Relations*, in M. MARESCEAU, E. LANNON (eds.), *The EU’s Enlargement and Mediterranean Strategies*, London, pp. 97-138.

called Barcelona Process, aimed to promote democracy and human rights to build stability and prosperity in the Union's southern neighbourhood, but it focused rather on political dialogue than on conditionality. Later, under the European Neighbourhood Policy, the EU was guided by the logic of more for more. In this embodiment of positive conditionality, partners were to receive more EU aid and access to its market if they implemented reforms, but this process gradually weakened and was not particularly revived by the implementation of the Union for the Mediterranean in 2008. The turning point was the Arab Spring in 2011, which led the EU to increase its emphasis on conditionality in its cooperation with the countries of its southern neighbourhood and to introduce the logic of negative conditionality – less for less. At the same time, the EU has been highlighting greater support for countries that implement political reforms and respect human rights. However, it has been accused of acting inconsistently and of making its reactions dependent on energy, migration, or security interests pursued in bilateral cooperation with individual partners, such as Egypt or Tunisia⁴⁶.

In the context of implementing values in the EU's neighbourhood, situation seems to develop differently, but not less dynamically, in the Eastern Partnership countries – Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. While the EU was testing the best solutions (one-size-fits-all, bilateral, tailor-made, and more-for-more⁴⁷), relations with the Eastern Partners have from the outset been characterised by the application of more extensive conditionality by the EU than in the case of the Union for the Mediterranean. For example, the Union proposed a system of tangible rewards for its Eastern Partners in return for reforms, including association agreements including DCFTA – deep and comprehensive free trade area, or visa liberalisation. However, this does not seem to have led to an improvement in the situation in these countries in terms of democracy, the rule of law, or respect for human rights – values that were supposed to be the core of the Eastern Partnership⁴⁸. The reasons for this state of affairs are complex.

First and foremost, the Eastern Partnership countries, as EU's "shared neighbourhood" [with Russia] and Russian "near abroad" become a battlefield for influence⁴⁹, but also for values represented by those competing powers. Ukraine has paid a high price for its Euro-Atlantic aspirations, as evidenced by the series of Russian attacks on its territory in 2014 and the full-scale invasion in February 2022. Moreover, Russia has been using the separatist regions of Georgia (Abkhazia and South Ossetia) and Moldova (Transnistria) under its control as a means of impeding their integration with the EU. Countries that have never been champions of cooperation with the EU have no greater achievements either. In 2013, Russia took advantage of Armenia's security vulnerability, stemming from the Nagorno-Karabakh conflict with Azerbaijan, to prevent the country from signing an

⁴⁶ *EU seals €7.4bn deal with Egypt in effort to avert another migration crisis*, in *The Guardian*, 18 March 2024, www.theguardian.com.

⁴⁷ A. PAUL, I. CIOLAN, *Lessons from the Eastern Partnership: Looking back to move forward*, in: *European Policy Centre Commentary*, published online 14 December 2021, www.epc.eu.

⁴⁸ *Idem*.

⁴⁹ *Idem*.

association agreement with the EU⁵⁰. This intervention pushed the partners to sign less ambitious CEPA – Comprehensive and Enhanced Partnership Agreement in 2017, which entered into force in 2021. Moreover, it is challenging to expect effective cooperation in the areas of democracy, the rule of law, and respect for human rights with authoritarian states, such as Belarus and Azerbaijan (both scoring 7/100 – not free in the Freedom House Index as of 2025⁵¹). For instance, following the rigged presidential elections of 2020, the EU decided to freeze relations with the Belarusian regime. In response, the latter suspended the country's participation in the Eastern Partnership and the readmission agreement with the EU in 2021⁵². Apart from the unwillingness of the ruling elites to sacrifice their position to pursue Western-oriented foreign policy, the EU lacked significant economic leverage over them. Belarus's economic integration with Russia has been significant, the same is true for Armenia which after the outbreak of Russian full-scale invasion on Ukraine became an important trade hub. Moreover, the potential for financial sanctions is insufficient as a discouraging factor on Azerbaijan, whose economy is predominantly reliant on energy resources extraction, which are also valuable for the European Union. At the same time, the EU's actions in this area are inconsistent, and this is mainly due to the particular interests of its member states, but also institutions. It imposed sanctions on the Belarusian regime⁵³ and, in 2025, on some Georgian politicians, but Hungary and Slovakia opposed the application of a more decisive approach to the ruling Georgian Dream, which blocked further EU actions in this area because they require unanimity. There was even less consensus on the imposition of sanctions on Azerbaijan in response to its forceful takeover of Nagorno-Karabakh. The EU's failure to address the issue brought accusations of applying double standards and putting energy interests above democracy, the rule of law, and respect for human rights⁵⁴.

What remains in such instances in the EU's toolbox is maintaining and strengthening support for local civil society organisations (e.g. in Georgia, Belarus⁵⁵), but also – at least in some cases – cutting off the financial aid. This was implemented in 2018 against Moldova, where the EU temporarily froze its access to financial support programs in response to irregularities in the 2018 mayoral election, a failure to properly investigate the 2014 bank fraud, and inadequate judicial reform⁵⁶. Therefore initiated in 2021 NDICI, is currently the most significant instrument for the EU's financial impact on partners in its neighbourhood and beyond. The NDICI was established to supersede the preceding European Neighbourhood Instrument, European Instrument for Democracy and Human Rights, and many others. It is segmented into three primary components: geographical one

⁵⁰ S. KOLARZ, *CEPA as a Model of Cooperation: The Example of EU-Armenia Relations*, *PISM Bulletin*, n. 73 (1769), published online 1 April 2021, www.pism.pl.

⁵¹ Freedom House, cit.

⁵² European Council | Council of the European Union, *Belarus*, www.consilium.europa.eu.

⁵³ European Council | Council of the European Union, *Timeline - EU sanctions against Belarus*, www.consilium.europa.eu.

⁵⁴ S. KOLARZ, *EU Searching for Approach to the Nagorno-Karabakh Conflict*, *PISM Bulletin*, n. 148 (2267), published online 20 October 2023, www.pism.pl.

⁵⁵ European Council | Council of the European Union, *Belarus*, cit.

⁵⁶ A. PAUL, I. CIOLAN, cit.

which encompasses EU neighbouring countries; thematic – which incorporates respect for human rights; and a rapid response component⁵⁷. The NDICI Regulation in Article 3(1)(a) clearly states that its general purpose is to “uphold and promote the Union’s values, principles and fundamental interests worldwide”⁵⁸. The instrument provides for both negative (Article 25(4) and 42(4)) and positive conditionality (Article 27(5) and 42(4)), though especially the application of the former may be constrained within the framework of rapid response⁵⁹. The European Commission, in its capacity as administrator of the aid, uses this tool together with the Annual Implementation Reports and Country Roadmaps. However, in this case the consistency of its implementation is yet to be seen. The practice of implementation of NDICI predecessors seem to be uneven. The European Union was capable of impeding financial transfers to Ethiopia in early 2021 as a result of the deterioration of its domestic political situation regarding Tigray region⁶⁰, but certain undemocratic countries are still receiving aid through this instrument, a practice that, although not always overtly endorsed, is rationalised by the Union’s best interest, e.g. the necessity of collaboration in the domain of migration.

4.2. The EU trade policy

The trade policy, bearing a significant development component, is one of the most significant instruments at the EU’s disposal. The EU’s capacity to attract partners is rooted in the appeal of its internal market⁶¹, which serves as an incentive, enabling it to exert influence over its partners. In this context, it is pertinent to mention several mechanisms, namely the GSP – Generalised Scheme of Preferences, and EU trade agreements. The current legal basis for the application of GSP (launched in 1971) is regulation no 978/2012⁶². The GSP is composed of three distinct regimes: EBA – Everything But Arms, standard GSP, and GSP+. Their selection for specific bilateral relations with the EU partners is determined by their level of development and their commitment to respecting values and rights that the EU considers to be of particular importance.

EBA applies to the so-called LDCs – least developed countries, as defined by the UN, e.g. Afghanistan, Ethiopia, Haiti, Madagascar, Nepal, Rwanda, Somalia (46 in total). The instrument implies full tariff and quota-free imports for all goods, except for arms⁶³, as

⁵⁷ Article 4(1) NDICI Regulation.

⁵⁸ Regulation (EU) 2021/947 of the European Parliament and of the Council *establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (Text with EEA relevance)*, of 9 June 2021, in OJ L 209, of 14 June 2021, pp. 1-78.

⁵⁹ The parallels that can be drawn here with humanitarian aid, which by its very nature should not be made dependent on the fulfilment of additional criteria by its beneficiaries.

⁶⁰ S. MARKS, *EU suspends nearly €90M in aid to Ethiopia over internal conflict*, in *Politico*, published online 16 December 2020, www.politico.eu.

⁶¹ C. DAMRO, *Market power Europe*, in: *Journal of European Public Policy*, 2012, n. 19(5), pp. 682-699.

⁶² Regulation (EU) No 978/2012 of the European Parliament and of the Council *applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008*, of 25 October 2012, in OJ L 303, of 31 October 2012, pp. 1-82.

⁶³ European Union, *Generalised system of preferences (GSP)*, www.eur-lex.europa.eu.

long as they retain the LDC status (plus 3 years of transition period)⁶⁴. A notable distinction between EBA and the other two GSP mechanisms is the absence of a requirement for LDCs to ratify any conventions regarding e.g. human or labour rights. This does not imply, however, that these countries are entirely exempt from any standards, as trade preferences may be withdrawn due to e.g. a deterioration of democracy or human rights situation. Moreover, within the EBA framework the EU enhanced its engagement with Bangladesh, Cambodia, and Myanmar to focus more systematically on respect of fundamental human rights and labour rights in those countries. In case of Cambodia it even went further; in 2020 the European Commission temporarily and partially withdrew part of its preferences due to continuous human rights abuses in the country. While such decisions are procedurally easier to take (they depend on Commission and not on consensus among 27 EU Member States), they are not consistently implemented due to some other factors. For instance, the EU did not suspend trade preferences for Myanmar after the February 2021 military coup (the last suspension dates back to 2013-2016⁶⁵) to protect its citizens. According to the Commission estimates, application of the restrictions would hit the local society – 450-500 thousand people directly employed by companies benefiting from EBA preferences⁶⁶. Among the other arguments against the trade restrictions taken into consideration by the EU were fears of increasing resentment of the Rohingya in local society and of Chinese or military taking over the market from local industries that benefit from EBA⁶⁷. Instead of suspending EBA preferences, the Union has taken other actions, such as increasing humanitarian aid, supporting non-governmental organisations, and monitoring the situation in Myanmar. Moreover, it has established a series of targeted sanctions directed at the individuals and entities responsible for human rights violations⁶⁸.

The Standard GSP applies for developing countries, as specified by the World Bank as lower or lower-middle income countries (in addition, they shall not benefit a preferential access to the EU common market on any other basis), and implies the reduction or suspension of tariffs for goods imported from those countries⁶⁹. The mechanism ceases to be used due to economic factors (generally speaking, if EU imports of specific product groups become too competitive⁷⁰) or if the country graduates, meaning it has been classified by the World Bank as a high or upper-middle income country for 3 consecutive years⁷¹. Currently from GSP benefit Republic of Congo, India, Indonesia, Kenya, Nigeria, Tajikistan, and Vanuatu, to mention but a few. Importantly, to benefit from GSP the

⁶⁴ GSP Hub, www.gsphub.eu.

⁶⁵ D. HUTT, *EU talks tough but goes soft on Myanmar trade*, in: *Asia Times*, published online 30 September 2022, www.asiatimes.com.

⁶⁶ M. RUSSEL, *Myanmar EBA arrangement removal would hit 100,000s of garment workers*, in: *Just Style*, published online 19 July 2022, www.just-style.com; A. PENNISI DI FLORISTELLA, *The Everything But Arms (EBA) scheme and the EU's normative dilemma: the case of Myanmar's garment sector*, in *Third World Quarterly*, 2023, no. 11, pp. 2404-2421.

⁶⁷ D. HUTT, cit.

⁶⁸ A. PENNISI DI FLORISTELLA, cit.

⁶⁹ GSP Hub, cit.

⁷⁰ Idem.

⁷¹ European Union, *Generalised system of preferences (GSP)*, cit.

country shall be deemed to respect the basic human and labour rights principles outlined in the 15 international acts, including ICCPR, ICESCR, and ILO conventions regarding children or forced labour, freedom of association, or collective bargaining. Under GSP+ the list of core acts is extended to 27⁷². Among its beneficiaries are Bolivia, Cape Verde, Kyrgyzstan, Mongolia, Pakistan, Philippines, Sri Lanka, Uzbekistan. The GSP+ offers to them lower tariffs to standard GSP, but its application is subject to – beyond economic factors – ratification and implementation by the partner 27 international conventions on human and labour rights, environment, and good governance⁷³. Violation of these conventions may result in suspension of GSP (GSP+) preferences. That was the case of Sri Lanka in 2010-2017, where the EU suspended GSP+ due to serious human rights violations. It is currently monitoring the situation in the country and has repeatedly raised concerns about compliance with GSP+ commitments, but has not decided to suspend the scheme again. The EU controls the effective implementation of the aforementioned acts via dialogue with the authorities, monitoring missions, interviews with CSOs, and the UN and ILO reports⁷⁴.

However, these mechanisms also have their weaknesses. First of all, in this respect, the EU may succumb to competition from non-democratic states that do not expect their partners to respect democracy, the rule of law, or human rights, suggesting that they offer more economic benefits for much less (what is not particularly true looking from the economic perspective, what seems to be best illustrated by the actions of China in Africa). In the case of this continent, there is also the post-colonial legacy and the difficulties with positioning the EU as the one that (again) comes and instructs the states that are supposed to be its equal partners.

4.3. The EU missions

Since the inaugural CSDP missions and operations were initiated in 2003, the EU has engaged in over 40 external operations, deploying civilian and military capabilities in numerous countries across Europe, Africa, and Asia (currently, there are 21 ongoing missions and operations, including 12 civilian, eight military, and one civilian and military initiative)⁷⁵. While those missions are dedicated to the overarching objectives of promoting stability within host nations, thereby upholding values of peace and security, the mandates of certain missions explicitly entitle them to address democracy, the rule of law, and the promotion of human rights, e.g. ongoing civilian missions EULEX Kosovo, EUAM Ukraine, or the mission has already been completed EUJUST LEX in Iraq. Nevertheless, the feasibility of dispatching an EU mission is contingent upon the host country's consent, a factor that also impacts the mission's operational scope. This is illustrated by the mission that was not set to promote democracy or rule of law as such, but indirectly contributes to ensuring respect for human rights – the EUMA mission in

⁷² GSP Hub, cit.

⁷³ European Union, *Generalised system of preferences (GSP)*, cit.

⁷⁴ GSP Hub, cit.

⁷⁵ European External Action Service, *Missions and Operations*, www.eeas.europa.eu.

Armenia, launched in 2023 at the invitation of the Armenian authorities. The mission's primary objective is to monitor the country's border with Azerbaijan and support building confidence between the two neighbours. However, due to Azerbaijan's refusal to accept an EU mission on its territory as well as even remote contacts, its activities are constrained.

Other types of missions that also require the consent of host countries are the EOMs – Election Observation Missions, which focus directly on democracy and the rule of law and thus support respect for human rights in host countries⁷⁶. Since 2000, the EU has sent over 180 EOMs worldwide⁷⁷. Yet these activities also do not take place without disruptions. For example, in 2024, Venezuela withdrew its invitation to EOM in response to the EU lifting only part of the sanctions imposed on the country (whose authorities demanded withdrawing all of restrictions)⁷⁸. Moreover, in the case of uncooperative attitudes of host countries, the EU itself sometimes comes to the conclusion that election observation may be undoable. This was the case of the presidential and legislative elections in the Democratic Republic of Congo in 2023. The EU annulled a planned observation mission due to obstruction by the Congolese authorities, who imposed conditions on the use of satellite equipment and other restrictions that prevented the mission from being carried out independently and safely⁷⁹.

While EU missions appear to focus primarily on the promotion of values, it is important to note that they often contribute to their protection as well, albeit in a less direct manner. For example, although there may be concerns about democratic standards in many of the countries being monitored, the presence of observers may help maintain the scarce positive systemic solutions and prevent them from being abolished.

4.4. Other instruments

When analysing the EU toolbox regarding the values promotion and protection, it is also worth pointing out other mechanisms of influencing partners. What has already been mentioned in previous parts, but requires specification, is of course the EU sanctions policy. In 2020, the EU established a so-called Global Human Rights Sanctions Regime, which – according to the current legal framework – is to be in force until 8 December 2026, with the list of sanctioned persons and entities subject to sanctions being reviewed annually. It currently includes 67 natural and legal persons, as well as 20 entities, and the restrictions imposed on them include a ban on travel to the EU, an asset freeze, and a ban on EU persons and entities making funds available to the sanctioned persons or entities⁸⁰.

⁷⁶ European External Action Service, *EU Election Observation Missions*, www.eeas.europa.eu.

⁷⁷ *Idem*.

⁷⁸ V. SEQUERA, *Venezuela revokes invitation to EU election observers for presidential vote*, in *Reuters*, published online 29 May 2024, www.reuters.com.

⁷⁹ *EU Cancels Congo Election Observation Mission*, in *VOA News*, published online 29 November 2023, www.voanews.com; *DRC elections: EU Cancels Election Observation Mission Due to "Technical Issues"*, in *Africa News*, published online 13 August, www.africanews.com.

⁸⁰ Council of the European Union, *EU Global Human Rights Sanctions Regime: restrictive measures prolonged*, 4 December 2023, www.consilium.europa.eu; Council Decision (CFSP) 2020/1999 *concerning restrictive measures against serious human rights violations and abuses*, of 7 December 2020, in OJ L 410I, of 7 December 2020, p. 13, as amended.

The problems with achieving unanimity by the Council are not limited to this act, but are also visible in the broader sanctions policy. This is evident from the difficulties in adopting further sanctions packages against Russia for its aggression against Ukraine. Although Russia's attacks are condemned by EU members, some of them are reluctant to impose further restrictions due to their individual interests (e.g., again, energy supplies).

Also related to sanctions is exerting pressure on partners using the EU visa policy. In this context, the suspension of the preferential visa regime serves to sanction countries that violate the principles of democracy, the rule of law, or human rights. Such measures are currently applied to Belarus and Russia⁸¹, and to some Georgian decedents and politicians.

It is noteworthy that all these mechanisms focus primarily on protecting values, rather than promoting them.

5. Conclusions

Values such as democracy, rule of law, and respect for human rights play multifaceted role in the EU external action. On the one hand, they constitute the selection criteria of the EU partners, on the other they are an object of promotion and protection worldwide. Those dimensions oftentimes overlap. To accomplish the tasks mirroring those roles, the EU employs a wide range of tools, from some soft instruments of dialogue with its partners, through economic incentives, to sanctions. Those are usually not stand-alone instruments designed solely to endorse the (EU) values; rather, they are components of some other EU policies. Sometimes the elements of its toolbox are more promotion-oriented (e.g. the partnerships with like-minded countries), while in the other cases they are strictly focusing on values protection (e.g. sanctions), or their role is mixed (e.g. the enlargement policy, the neighbourhood policy, trade policy, EU missions), though one of the roles may be prevailing. Accordingly, some instruments are capable of being implemented both in the context of positive and negative conditionality (e.g. financial instruments). This, in turn, demonstrates the broad choice adaptable to particular situations. However, this flexibility sometimes becomes the Achilles heel in implementing values in EU external action provoking accusations against the EU of inefficiency, or even applying double standards. While it is not the aim of this text to defend the EU at all costs, when formulating such assessments it is necessary to take into account the limitations of the EU's external action resulting from both the internal and external factors.

From an intra-EU perspective, the Union's external actions will oftentimes depend on the unanimous decision of its Member States, and achieving such a consensus is sometimes extremely challenging, due to different positions on specific issues determined by the particular interests of the 27 countries (e.g. case of not imposing sanctions on Georgia). Moreover, sometimes even the EU institutions have trouble establishing a

⁸¹ Council of the European Union, *EU visa agreements with non-EU countries*, www.consilium.europa.eu. The suspension also applies to Vanuatu, but in this case the basis was not so much the violation of the above-mentioned rules, but the concerns about the security and tightness of the visa system resulting from the country granting so-called golden passports - citizenship in exchange for investments.

common front, or the EU as a whole is not inclined to take more decisive steps to protect common values due to energy interests (e.g. case of abstaining from imposing sanctions on Azerbaijan), security, or migration (e.g. Egypt, Tunisia).

On the other hand, not all countries are fertile ground for promoting EU values. In most cases, the success of the EU actions will depend on the approach of their authorities. In many instances their reluctance to endorse Western standards would be due to either a fear for losing power, or rejecting the EU initiatives as post-colonial, or both. Sometimes the EU is not the only (or not the most important) partner of the country it wants to influence, which weakens its leverage (e.g. Belarus, Armenia). Moreover, the EU's expectation that its partners will respect its values, in some cases from the outset puts it at a disadvantage compared to competitors seeking to win the hearts and minds of third countries that do not have such requirements, suggesting that the support they provide would come with no strings attached, which is only partly true. Of course, this does not mean that the EU has entirely failed and should stop acting. The examples of Georgia and Belarus in particular show that the societies of many countries want to cooperate with it and expect even greater involvement. Yet it seems that the evaluation of the EU policies, just as their implementation, shall be more realistic as to what is achievable or not in particular circumstances of the case.

ABSTRACT: The European Union, which is broadly acknowledged for its role in fostering democracy, rule of law, and human rights within Europe, has increasingly sought to project these values in its external action. Despite these ambitions, the EU attracts some criticism for perceived inconsistencies and double standards in this field. To address this discrepancy, this article investigates the mechanisms through which the EU seeks to promote and protect the values overseas and assesses the factors that influence the effectiveness of these endeavours. It employs a legal research methodology to identify and categorise the relevant instruments used in external policy what is further supplemented with political analysis. The findings indicate that the EU's external value promotion is shaped by a complex interplay of internal, as well as external variables such as the political will and socio-economic context of third countries.

KEYWORDS: democracy – rule of law – human rights – foreign policy – conditionality.