



The Values of the European Union : Elements of a European Identity

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When an event occurs, we are not necessary aware of it...



Why defining values?

Formally necessary to

1. Consider the candidature of an State
2. Suspension of certain rights of a Member State in case of violation of EU values

Considering the candidature of an new Member State

October 2011: Commission opinion **on the application for accession to the European Union by the Republic of Croatia**

*The Commission considers that Croatia meets the **political criteria** and expects Croatia to meet the economic and acquis criteria and to be ready for membership by 1 July 2013. Membership requires the continued **respect of the values** on which the Union is founded as well as the **commitment** to promoting them*

Suspension of certain rights of a Member State in case of violation of EU values



Used once against Austria in 2000

Moment in EU History :

14 Member States decided to embark on a **diplomatic boycott** of Austria if extreme-right populist Jörg Haider was included in a governing coalition

EU Treaties **did not include** dedicated provision to act ... even though Europe was understood to be a community with shared values.

Provisions on potential sanctions have been included in Article 7 of the EU Treaty in 2001 by the Nice Treaty

The so-called **four steps** approach:

- **Initiative** could be taken by the Parliament, Council or the Council
- Council could decide that there is a « clear **risk** of a serious breach by a Member State of the values »
- European Council could decide « existence of a serious and persistent **breach** »
- Council could « suspend certain of the **rights** deriving from the application of the Treaties

Never used but Hungary might be the first ...

Constitutional changes and other laws weaken the independence of the judiciary, media and the central bank have been adopted by the new Government (Fidesz)

Does it constitute a breach of EU values ?

- European Commission has expressed concerns twice and might to decide to consider Hungary ineligible for EU cohesion Funding.

Will not be based on article 7

No fines available for budget deficit (not in the Eurozone)

Parliament : Guy Verhofstadt, president of the Alliance of Liberals and Democrats for Europe (ALDE), called for sanctions against Hungary

Unfortunately, the time has come to apply it to protect democracy and fundamental rights in Hungary and in the EU today, and avoid setting a dangerous precedent as well as a bad example for aspirant countries wishing to join the Union.

Still looking for a majority to act...

French Foreign Minister Alain Juppé told national television on January 3 that “the situation is problematic in Hungary”.

No others Member States reactions

Are values necessary to
define a EU identity ?

Formally not defined by EU treaties

Only **one reference in the preamble** stating that *resolved to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence ..., thereby reinforcing the **European identity** and its **independence** in order to promote peace, security and progress in Europe and in the world,*

EU identity

- A synonym of citizenship ?
- An element of its citizenship ?
- No formal cross references in the treaties between values and identity or citizenship

Focusing on EU values

Before the values ... some principles introduced in 1991 by the Maastricht Treaty but not defined

Article F of TEU

1. *The Union shall respect the national identities of its Member States, whose systems of government are **founded** on the **principles of democracy**.*
2. *The Union shall respect **fundamental rights**, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the **Member States**, as **general principles of Community law**.*

Principles listed in 1997 by the Amsterdam Treaty

Article 6 of TEU

*The Union is **founded** on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.*

Principles transformed into values by the Lisbon Treaty (Article 2)

*The Union is **founded on the values** of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.*

*These values are **common** to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.*

Attempt to explain the mutation

Content of both provisions are almost equivalent. The add-on of Lisbon consists essentially in the **externality** of the value as mentioned in its article 3 :

*The Union's aim is to promote peace, its **values** and the well-being of its peoples.*

*In its relations with the wider world, the Union shall uphold **and promote its values** and interests and contribute to the protection of its citizen*

Two sentences establishing a values hierarchy ?

Sentence one : EU essentials values

Sentence two : three possibilities

1. New values add to essentials values

Tolerance, non discrimination

2. Implementing values linked to essentials values

Equality and equality between women and men,
rule of law and justice, freedom and pluralism

3. Something else ... principles

Principles defining the EU society sharing common
values (not to be promoted externally)

EU values are not restrained to Article 2

Recognition of the rights, freedoms and principles set out in the **Charter of Fundamental Rights** of the European Union

Same legal value as the Treaties (Article 6.1 TFE).

Divided in six sections:

- Dignity, freedoms, equality, solidarity, citizen's rights (democracy) and justice (rule of law)

The Charter exception invoke by Poland and United Kingdom

Protocol 30 Article 1:

*The Charter **does not extend the ability** of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom **are inconsistent** with the fundamental rights, freedoms and principles that it reaffirms.*

A potential discrimination between EU citizens ?

Adhesion to the European Convention for the Protection of Human Rights and Fundamental Freedoms (article 6.1 TEU)

*Fundamental rights....as they result from the constitutional traditions common to the Member States, shall constitute **general principles** of the Union's law.*

Included since the Maastricht Treaty

Are values equally implemented by the Member States ?

Short analysis of certain values as defined by the EUT and the Charter

Human Rights, Human Dignity

Right to life

Right to marry and right to found a family

Equality

Equality between women and men

When does life start : legal abortion?

Member State	Principle	Since	Regime
Austria	Yes	1974	Deadline (1 st or even 2 nd trimester in case of physical or mental risks)
Belgium	Yes	1990	Deadline (1 st or even 2 nd trimester if risk of death of the woman) + the distress must be described by the demander
Bulgaria	Yes	1990	Deadline (1 st or even 2 nd trimester if malformation of the foetus)
Cyprus	Yes	1974	Rape or medical reasons (no legal deadline)
Czech Republic	Yes	1986	Deadline (1 st trimester, can be extended if rape)
Germany	Yes	1995	Deadline (1 st trimester)
Denmark	Yes	1973	Deadline (1 st trimester)
Spain	Yes	1985	Deadline, in case of rape or medical reasons (until 14 th week if serious risks for the mother's health, 22 nd if risks of malformation of the foetus)
Estonia	Yes	1998	Deadline (1 st trimester)
Finland	Yes	1970	Deadline, for rape or health, economical or social reasons (1 st trimester or before 24 th week if foetus is malformed, 20 th week if demander is under 17 y-old)
France	Yes	1975	Deadline (1 st trimester) + distress must be described by the demander
Greece	Yes	1986	Deadline (1 st trimester, can be extended if rape)
Hungary	Yes	2000	Deadline (1 st trimester, can be extended if rape)
Ireland	No, but exceptions	1983	Risk of death of the woman
Italy	Yes	1998	Deadline (1 st trimester)
Latvia	Yes	2002	Deadline (1 st trimester)
Lithuania	Yes	1982	Deadline (1 st trimester)
Luxembourg	Yes	1978	Deadline, for rape or health, economical or social reasons
Malta	No		
Netherlands	Yes	1981	Deadline (2 nd trimester)
Poland	Yes	1956 (1997)	Deadline, only for rape, foetus malformation, risks of death of the woman (1 st trimester)
Portugal	Yes	2007	Deadline, only for rape or health reasons (10 th week)
Romania	Yes	1989	Deadline (1 st trimester)
Slovakia	Yes	1986	Deadline (1 st trimester, may be extended if rape)
Slovenia	Yes	1977	Deadline (10 th week)
Sweden	Yes	1974	Deadline (18 th week)
United-Kingdom	Yes	1967	Deadline, for rape or health, economical or social reasons (2 nd trimester)

When does life end ?

- Euthanasia is authorised under certain conditions only in Netherlands, Belgium and Luxemburg

Right to marry and right to found family

- Gay and lesbian marriage is authorized only in Sweden, Netherlands, Spain, Portugal and Belgium, however and others MS offer particular forms of « contractual relationship »

Lesbian and gays
marital status
available

Table 4: Gay marriage

Member State	Principle
Austria	No, but civil union (2010)
Belgium	Yes (2003)
Bulgaria	No
Cyprus	No
Czech Republic	No, but civil union (2006)
Germany	No, but civil union (2001)
Denmark	No, but civil union (1989)
Spain	Yes (2005)
Estonia	No
Finland	No, but civil union (2002)
France	No, but civil union (1999)
Greece	No
Hungary	No, but civil union (2009)
Ireland	No, but civil union (2011)
Italy	No
Latvia	No
Lithuania	No
Luxembourg	No, but civil union (2004)
Malta	No
Netherlands	Yes (2001)
Poland	No
Portugal	Yes (since 2010)
Romania	No
Slovakia	No
Slovenia	No, but civil union (2005)
Sweden	Yes (2009)
United-Kingdom	No, but civil union (2005)

The right to divorce

Table 3: The right to divorce

Member State	Principle	Regime
Austria	Yes	Adversary, by consent, de facto separation (3 years)
Belgium	Yes	Adversary, by consent, de facto separation (2 years)
Bulgaria	Yes	Marital breakdown or consent
Cyprus	Yes	Adversary (listed causes)
Czech Republic	Yes	Marital breakdown
Germany	Yes	Failure of the marriage
Denmark	Yes	Adversary, consent, de facto separation (2 years)
Spain	Yes (since 1981)	Consent
Estonia	Yes	Consent
Finland	Yes	Failure of the marriage, de facto separation (2 years)
France	Yes	Adversary, consent, de facto separation (6 years)
Greece	Yes	Adversary, consent, de facto separation (4 years)
Hungary	Yes	Failure of the marriage, consent, de facto separation (3 years)
Ireland	Yes (since 1996)	De facto separation (4 years)
Italy	Yes (since 1970)	Adversary (listed causes), consent, de facto separation (3 years)
Latvia	Yes	Adversary (listed causes), consent, de facto separation (3 years)
Lithuania	Yes	Adversary (listed causes), consent, de facto separation (1 year)
Luxembourg	Yes	Adversary (listed causes), consent, de facto separation (3 years)
Malta	Yes (since 2011)	De facto separation (4 years)
Netherlands	Yes	Failure of the marriage
Poland	Yes	Marital breakdown
Portugal	Yes (since 1977)	Adversary, consent, de facto separation (6 years)
Romania	Yes	Adversary, consent
Slovakia	Yes	Marital breakdown (listed causes)
Slovenia	Yes	Failure of the marriage
Sweden	Yes	Consent, de facto separation (2 years)
United-Kingdom	Yes	Adversary, de facto separation (2 or 5 years)

Gender non discrimination

Member State	Principle inserted in	Implementing instruments
Austria	Constitution, Law	Quotas, gender mainstreaming policy ¹
Belgium	Constitution, Law	Quotas, gender mainstreaming, creation of specific authorities (Secretary of State, Institute)
Bulgaria	Constitution, Law	Specific authorities (Commission)
Cyprus	Constitution, Law	
Czech Republic	Constitution, Law	Quotas, specific authorities (Council, Committee, Ombudsman)
Germany	Constitution, Law	Quotas, gender mainstreaming
Denmark	Constitution, Law	Gender mainstreaming, specific authorities (Ministry)
Spain	Constitution, Law	Quotas, <i>gender</i> mainstreaming, specific authorities (Institute)
Estonia	Law	Specific authorities (Office, Commissioner)
Finland	Law	Quotas, gender mainstreaming, specific authorities (permanent parliamentary commission)
France	Constitution, Law	Quotas, specific authorities (High Authority)
Greece	Constitution, Law	Quotas, gender mainstreaming, specific authorities (General Secretariat)
Hungary	Constitution, Law	Quotas, gender mainstreaming, specific authorities (Authority, Directorate, Office)
Ireland	Law	Gender mainstreaming, specific authorities (Division)
Italy	Constitution, Law	Quotas, gender mainstreaming, specific authorities (Department, Committee, Commission)
Latvia	Law	Specific authorities (Department, Division)
Lithuania	Constitution, Law	Quotas, gender mainstreaming, specific authorities (Inter-ministerial Commission)
Luxembourg	Constitution, Law	Quotas, gender mainstreaming, specific authorities (Ministry)
Malta	Constitution, Law	Quotas, specific authorities (Commission)
Netherlands	Constitution, Law	Quotas, gender mainstreaming, specific authorities (Ministry, Commission)
Poland	Constitution	Quotas, specific authorities (parliamentary committee)
Portugal	Constitution, Law	Quotas, specific authorities (Commission)
Romania	Constitution, Law	Gender mainstreaming, specific authorities (commissions, Agency, Council)
Slovakia	Law	Specific authorities (Office, Committee)
Slovenia	Law	Quotas, specific authorities (offices)
Sweden	Law	Quotas, gender mainstreaming, specific authorities (Ministry, Directorate, Commission, Ombudsman)
United-Kingdom	Law	Quotas, gender mainstreaming, specific authorities (Ministry, Commission, Unit)

The reference to God in the EU treaties

Question has been raised during the debate on the EU
Constitution (Convention 2002)

Favor a reference to the Christian inheritance

- The necessity to establish the christianity of the EU
base to reject the candidature of certain states
- Fundamental values that transcend « human laws »
Base to prohibit abortion

Against clear separation between states and religions

- Religious choices should not be promoted
- Religions should remain the privacy of individual

A compromise provision has been included in the Preamble

DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,

Religions and not God

ReligionS (Christian, Muslim, Jew) and Humanist (philosophy of the Enlightenment) and Cultural (Roman and Greek)

To conclude : *United in diversity*

- Informal motto of the EU
- EU fundamental values allow a certain diversity in their implementation by Member States

In others words...



