

# Norm Contestation in EU Foreign Policy: The Case of Sexual and Reproductive Health and Rights

DIEGO BADELL 

Universitat Autònoma de Barcelona, Cerdanyola del Vallés

## Abstract

The EU considers gender equality fundamental to its identity, with Sexual and Reproductive Health and Rights (SRHR) playing a crucial role. This article delves into the contested aspects of EU foreign policy concerning SRHR from 1997 to 2021. Through document analysis and 18 semi-structured interviews, it discerns three phases of contestation. Between 1997 and 2017, contestation was institutionalised within the EU, and the norm was reinforced. However, from 2017 to 2020, validity contestation arose as Hungary, Poland and the United States formed an alliance opposing SRHR, resulting in their symbolic exclusion from the EU's normative community. In 2021, within a less polarised international context (with the United States returning to consensus on SRHR), Hungary and Poland reaffirmed their commitment to the EU's SRHR consensus, highlighting the resilience of the norm.

**Keywords:** contestation; EU foreign policy; gender equality; resilience

## Introduction

In 2015, the European Union (EU) affirmed gender equality norms as integral to its identity (European External Action Service [EEAS], 2015), echoing the commitment outlined in Article 8 of the Treaty on the Functioning of the EU to eliminate gender inequalities. This prompted discussions around the concept of an EU gender myth and has extended to the domain of foreign policy (Guerrina and Wright, 2016; Macrae, 2010).

Gender equality involves interconnected norms such as sexual and reproductive health and rights (SRHR), women's full economic and social parity, and distinction between biological sex and socially constructed gender roles (Sanders, 2018). This article centres on SRHR, which is a norm that applies human rights principles to matters of bodily autonomy, reproductive control and sexual freedom and is characterised by two dimensions: women's rights and LGBT rights. Whilst recent research on EU foreign policy has focused on the LGBT dimension (Jenichen, 2022; Saltnes and Thiel, 2021), less attention has been paid to the women's rights dimension.

More importantly, since 2009, such norms, particularly SRHR, have been openly contested at the United Nations by an anti-gender network<sup>1</sup> (Barbé and Badell, 2023). The EU has not been immune to such contestation (Kantola and Rolandsen-Agustin, 2016), where SRHR has become a highly contentious issue (Berthet, 2022). In line with the introduction to this symposium (Manuscript 1, Costa et al., Forthcoming),

<sup>1</sup>The network aims to advance their vision of traditional values by removing women's rights from the public policy agenda based on respect for religious values and morality (Gilby et al., 2021).

we investigate SRHR contestation dynamics within EU foreign policy. In particular, we ask how contestation over SRHR has shaped the EU's commitment from 1997 to 2021.<sup>2</sup>

Between 1997 and 2017, the EU adopted a global progressive stance on SRHR, whilst it assured Member States that domestic enforcement of these norms, especially concerning abortion, was not mandatory. SRHR institutionalisation was facilitated by the existence of institutional channels, allowing Member States with restrictive national laws to express their objections. Contestation during this period was primarily characterised by applicatory contestation that conversely reinforced SRHR within EU foreign policy (Deitelhoff and Zimmermann, 2020).

Contestation in the period 2017–2020 reached its peak in 2020 in the shape of validity contestation when Hungary and Poland voted against the Council Conclusions on the Gender Action Plan<sup>3</sup> (GAP) III. The two countries not only received support from the United States, illustrating an instance of external contestation, but also had the opportunity to act in such terms because an international alternative to SRHR was proposed: the Geneva Consensus.<sup>4</sup> As a result, a boundary emerged within the Council, demarcating those in favour of SRHR from those opposed to it. With a clear majority standing in favour of SRHR, the decision was taken to symbolically expel Hungary and Poland from the EU's normative community: the GAP III was adopted through Presidency Conclusions. Contrary to expectations from contestation literature, validity contestation did not erode the norm.<sup>5</sup>

Facing a more favourable international environment, in 2021, the norm quickly bounced back within EU foreign policy as the two countries rejoined the EU consensus on SRHR. This resurgence occurred with Donald Trump's exit from the White House and Hungary and Poland's resulting loss of US external support. Overall, and in line with the symposium's introduction (Manuscript 1, Costa et al., Forthcoming), this article asserts that the norm has exhibited remarkable resilience in the face of contestation attacks.

The next section introduces the analytical framework on contestation dynamics. Following that, we delve into the effects of contestation on SRHR within EU foreign policy. Conclusions reflect on the findings and propose new avenues for research in the field of SRHR and gender equality.

Before introducing the analytical framework, a brief methodological note is indispensable. The contribution to the symposium relies on the qualitative case study research method and is based on fieldwork conducted mostly in Brussels, but also online, between 2020 and 2021. The empirical evidence comes from 18 semi-structured interviews with EU officials from the European Commission and the EEAS, representatives from Member

<sup>2</sup>The cut-off date of this research was 7 May 2021.

<sup>3</sup>The Gender Action Plan is the EU strategy to promote gender equality and women's empowerment as a priority of all EU external policies and actions.

<sup>4</sup>The Declaration aims to carry out an illiberal revisionism of the norm. Whilst it maintains support for reproductive health as an international norm, it simultaneously advocates for the renationalisation of the norm on reproductive rights.

<sup>5</sup>The author would like to thank the reviewers' for bringing this to our attention.

States permanent representations<sup>6</sup> and civil society organisations. This manuscript also employs the document analysis technique,<sup>7</sup> examining references to SRHR in Council Conclusions over time, as well as other documents where SRHR plays a significant role, such as the European Consensus on Development and GAPs.

## Analytical Framework

Norms are usually defined as shared expectations regarding the appropriate behaviour to be exhibited in a given situation (Katzenstein, 1996). They determine what behaviour is acceptable and how it should be executed by actors who choose to engage in it (Klotz, 1999). Put simply, norms are intersubjective constructs that serve as reference points for actors, creating categories that shape their identity and interests.

Norms are inherently connected to norm communities,<sup>8</sup> which are composed of actors who share a common set of values and expectations (Hoffmann, 2010). This posits the existence of an in-norm community and an out-norm community, where the in-norm community serves as a platform for actors to engage in deliberations concerning the application of norms. Our central hypothesis, in line with Wiener (2014), is that contestation within a norm community fosters an environment where norms can undergo legitimate alterations as actors contest and challenge them through established and agreed mechanisms over time.

Yet there is a constant risk that contestation may transition from debating the application of the norm to validity contestation, seeking to undermine the norm itself (Deitelhoff and Zimmermann, 2020). This can occur in three scenarios: the presence of a critical mass of internal actors seeking a profound change to the norm; the emergence of an external actor causing a shock to the norm (i.e., outside-in contestation); and third, a concurrent internal and external contestations, which, as suggested by Thevenin et al. (2020), are frequently intertwined.

To face such challenges, norm communities are provided with a mechanism to safeguard the norm from erosion: norm socialisation,<sup>9</sup> with the ultimate goal of the internalisation of norms and values (Checkel, 2001, p. 554). As a result of this socialisation, within the EU, some authors consider the existence of a 'community of action' (Tonra, 2001). This allows one to postulate the presence within the EU of an in-group that attempts to accommodate the demands of reluctant actors, but once they perceive these actors transitioning into an out-group, they could enforce decisions that safeguard the community (Barbé et al., 2016), such as symbolically expelling the country from the community, for example, through ostracisation of the actor.

<sup>6</sup>The interviewee sample encompasses representatives from both small and big Member States. Despite efforts to engage all Member States' permanent representations, some responses were not positive. It is noteworthy that there is an imbalance, with underrepresentation of Central and Eastern European Member States. Their representatives politely declined participation. Additionally, Members of the European Parliament uniformly declined interview invitations.

<sup>7</sup>Document analysis refers to a systematic review and evaluation of documents guided by the research question (Bowen, 2009). Documents were read to uncover the underlying meanings and to understand the context of these documents (Altheide et al., 2008).

<sup>8</sup>It is important to note that the number of norm communities that may exist is not predetermined and may fluctuate based on contextual factors.

<sup>9</sup>Norm socialisation within the EU echoes the concept of norms as a work-in-progress because it emerged from repeated interactions amongst foreign-policy-makers (Krook & True, 2012; Tonra, 2001).

Thus, norm socialisation serves as a key mechanism in the establishment and perpetuation of norm communities. The socialisation end point is that actors internalise the norms and values of a specific normative community, adopting them as their own (Schimmelfennig, 2000). Two types of internalisation exist: an actor can either internalise the norm without reflective consideration (Type I) or can internalise the norm because they perceive it as the morally correct course of action (Type II) (Checkel, 2005). Additionally, Checkel identifies three mechanisms: role playing (i.e., Type I), normative suasion (i.e., Type II) and strategic calculation (Type II). The latter, strategic calculation, bears the inherent risk of an actor contestation escalating to its validity form because it does not involve any kind of norm internalisation (Juncos and Pomorska, 2006, p. 4).

To secure a successful internalisation, actors should have access to institutional channels through which they can express their concerns and objections, fostering a shared sense of identity and purpose within the community. This is based on the premise that enacting existing norms encourages adherence to established interpretations whilst discouraging behaviour that contradicts them (Wiener, 2009). Through these efforts, the norm achieves its primary objective: maintaining coherence and stability within the normative community over an extended period.

More to the point, the EU is defined as a liberal norm community, given that it is composed of a group of actors who share a common set of norms and values (Badell, 2023; Wagner, 2017). The treaties espouse a range of norms, including respect for human rights, democracy and equality between men and women, which are central to the EU's normative identity (Manners, 2002). To facilitate the ongoing refinement and evolution of its norms, the EU has established a framework for norm contestation within its own normative community. This framework encompasses active participation in discussions and debates regarding the implementation of norms, whilst also recognising the importance of contestation and the possibility of evolving, modifying and creating norms (Johansson-Nogués et al., 2020). This assumes an environment that allows and promotes norm applicatory contestation, enabling the EU to enhance the resilience<sup>10</sup> and adaptability of its normative framework (Wiener, 2014). Put simply, in norm applicatory contestation, actors adhere to and uphold the established rules, where contestation can be regarded as co-operative.

However, the EU norm community can be put at risk if it is object of validity contestation, understood as the type of contestation that seeks to erode existing norms (Deitelhoff and Zimmermann, 2020). This form of contestation, originating from within and/or outside, fundamentally questions the foundations of the EU's identity and purpose. It casts doubts on the very norms that underpin it and could indicate a fracture in the norm community where the internalisation of norms occurs (Manuscript 1, Costa et al., Forthcoming, p. 1).

Indeed, validity contestation has the potential to create divisions within the EU norm community by exposing differences in values, interests and priorities amongst Member States and other actors (Biedenkopf et al., 2021). This type of contestation can be seen as non-co-operative as actors, for instance, may jeopardise a common position on a pertinent issue even though a consensus has already been reached (Badell, 2023, p. 6).

<sup>10</sup>Resilience is understood as the ability to 'withstand, or to evolve and adapt to a constantly changing equilibrium' (Joseph, 2018, quoted in Manuscript 1, Costa et al., Forthcoming).

In line with the introduction to this symposium, we consider plausible the emergence of a boundary characterised by an in-norm community and an out-norm community (Manuscript 1, Costa et al., Forthcoming, p. 6). This demarcation can make it more challenging for the Union to reach a consensus on key policy issues and to promote its norms and values effectively. Overall, validity contestation has the potential to undermine the EU's coherence, legitimacy and effectiveness as a normative actor (Barbé and Badell, 2023).

All in all, the contestation of the EU's norms and values may elicit a variety of responses from the in-group. They can create institutional channels that facilitate constructive dialogue, aiming to comprehend and address the concerns raised by those contesting the norm at hand. But if certain actors attempt to modify or adapt contested norms and values in order to align them with changing circumstances, there may come a point where it becomes impossible to reconcile divergent perspectives within the EU normative community. In such cases, at least two scenarios can arise: if a majority of actors support the existing norm, it is likely that actors contesting the norm will be expelled from the normative community; however, if there is no clear majority, a collision between the existing norm and an alternative norm may occur.

## **SRHR: Cooperative and Non-co-operative Contestation**

### *Institutionalising Contestation (1997–2017)*

SRHR was introduced into the EU's normative framework in 1995 as part of the package of norms promoted internationally (Elgström, 2000, p. 462). Nonetheless, the norm faced contestation from its early stages, with disputes emerging as early as 1997, predating the Eastern enlargement. During negotiations on the 1997 Conclusions on Population and Aid, Italy voiced objections to the term 'sexual and reproductive health' due to concerns that it could be interpreted as taking a position on the issue of abortion. The Italian representative threatened to enter a reservation on the wording but ultimately withdrew it after consulting with the national capital (Elgström, 2000, p. 468).

A similar case took place, in 2004, during the negotiation of Malta's accession to the EU. It was stipulated in the accession agreement that the EU would never interfere in Maltese policy on women's reproductive rights, whilst the EU could promote the norm worldwide. Both the Italian and Maltese cases highlight that when reluctant Member States are socialised into SRHR, they tend to voice their objections through established negotiating channels, emphasising that they are not obligated to adhere to the norm domestically. This has led to the emergence of norm institutionalisation within the EU, which echoes the mechanism of strategic calculation, based on acknowledging and respecting the positions of these reluctant countries. It is agreed that they are not required to change their national laws and policies, but this does not restrain the EU from promoting SRHR internationally. This institutionalisation was once again reinstated during the 2006 European Consensus on Development (ECD), which granted SRHR a prominent position.

More significantly, it is noteworthy that in 2015, Member States that had a long-standing opposition to or were newly socialised into SRHR (i.e., after the 2004 and 2007 enlargements) had the opportunity to influence the consensus on it. During

negotiations, no significant changes were made. Council of the EU (2015) reinvigorated the SRHR institutionalisation within the EU, serving as the official document that encapsulates the collectively agreed language and stance on SRHR. Importantly, the conclusions would evolve to become the established reference point for the EU's common position on SRHR. This language played a similar role as the 2006 ECD in familiarising new Member States with SRHR terminology, but this time with the added ownership and endorsement of all 28 Member States.

As a result, a strategic bargaining was developed where the progressive group welcomed the activity reports of the European Commission, whilst the reluctant group took note of them. This practice did not hinder the EU's promotion of SRHR internationally, as evidenced by GAPs I (2010–2015) and II (2016–2020). But, in parallel, the progressive group of countries drawing insights from this experience initiated informal gatherings, establishing a network of like-minded countries to agree on a common agenda for action to be presented before the Council. This strategic move aimed to pre-empt opposition during meetings and solidify a consensus on the issue in advance (Interviews 6, 11 and 16). In other words, this timeframe shows how the EU acquired the skill to navigate contestation.

Nevertheless, following years of institutionalisation of the process that enabled opposing Member States to channel their contestation of SRHR, it reached a tipping point in 2017. During the Maltese presidency, the negotiation of the new ECD opened Pandora's box of redefining the SRHR common position. As chair of the Working Party on Development Cooperation (CODEV), Malta led Member States to address two plausible options for EU policy on SRHR in the field of development and co-operation.

On one hand, Malta backed a less ambitious SRHR language, whilst on the other hand, progressive parties pushed for a significantly more progressive SRHR language. Indeed, the ECD-making process was described as traumatic (Interview 7). Confronted with the potential deadlock and the prospect of an eroded commitment to the norm, the decision was made in the 2017 ECD to revert back to the 2015 Conclusions (i.e., agreed language), which is a standard negotiating approach by the EU in situations where no agreement is anticipated. It was also noted by some interviewees that Member States are highly prudent in employing what they referred to as the 'silver bullet'<sup>11</sup> against one norm (Interview 7).

In spite of Malta's attempts to revise the EU's SRHR position, the norm remained unaltered.<sup>12</sup> It could be posited that Malta's contestation inadvertently strengthened the norm, as subsequent meetings addressing SRHR consistently reaffirmed the 2015 agreed language. Yet diplomatic resources that went into securing such an agreement have led, in the opinion of some interviewees, to an EU that when dealing with SRHR thinks more about solving possible internal conflict than about diffusing the norm to the outside world (Interviews 11 and 16). Indeed, as the EU's commitment to SRHR was strengthened, internal disputes over whether to keep the status quo or not have had repercussions beyond the EU's borders. It has hindered the EU's normative influence, shifting from promoting norms abroad to becoming a beacon of disagreements. Notably, Türkiye has seized upon

<sup>11</sup>Silver bullet is a term used by the interviewee to describe the scenario in which a state chooses to block a reference to a norm in an EU document, where it is expected that the omission would lead to the norm's death.

<sup>12</sup>In this period, Malta was not the sole actor challenging the EU's position on SRHR. Ireland also expressed criticism of the EU's SRHR policy, citing its national stance on abortion as the reason for not endorsing the SRHR policies advocated by the EU.

the contestation of gender equality norms within the EU as a pivotal juncture to initiate the debate that ultimately led to the country's withdrawal, in 2021, from the Istanbul Convention, the most significant pan-European treaty on gender equality (Bodur Ün and Arikan, 2022, p. 957).

However, during that period, Malta embarked on a shift towards a more proactive role with regard to SRHR, exemplified by the legalisation of same-sex marriage in July 2017 (LGBT dimension). Although abortion remains prohibited in the country, Malta's progressive stance on sexual rights has facilitated its departure from the role of an obstructionist force in such debates. Concurrently, Ireland, previously Malta's staunchest ally in opposition to SRHR, also altered its stance by legalising abortion through a referendum in May 2018, having already legalised same-sex marriage in 2015.

All indications suggested that the prospect of change could result in the EU adopting a more robust SRHR policy. However, developments at the international level in January 2017 transformed the anticipated winds of change into an incisive blizzard.

The election of Trump as US president in 2017 dealt a significant blow to the gradual yet consistent evolution of the EU's trajectory towards becoming a globally influential actor in the domain of SRHR. It thereby represented an instance of external contestation. Trump's approach involved polarising SRHR on the international stage, systematically challenging the universalistic aspect of the norm with the intent of constructing an illiberal alternative (Barbé and Badell, 2023).

In other words, contestation to SRHR within the EU emerged from both external and internal sources. Delving into the internal source, we have seen the evolution of Malta and Ireland. Both countries transitioned from opposing SRHR and prioritising that domestic policy not be constrained by the EU's international policy to becoming Member States either adopting a progressive stance (i.e., Ireland) or expressing less criticism (i.e., Malta). However, two other Member States continued to assume an obstructionist role.

As articulated by one interviewee, there consistently exists a dynamic where two Member States oppose SRHR policies within the EU: Poland and Hungary. Trump's election and the emergence of Hungary and Poland's particular form of contestation, as opposed to that of Malta and Ireland, coincided with the withdrawal of the United Kingdom from the EU. According to some interviewees, the United Kingdom had been considered a crucial actor in bridging the gap between Member States that supported and opposed SRHR (Interviews 4, 5 and 14). The reality that the EU had to contend with was twofold. Firstly, the departure of a crucial consensus-building player and, secondly, the persistent endeavours by the Trump Administration to build an alternative norm.

Differing from the approach adopted by Ireland and Malta (i.e., strategic calculation) in contesting SRHR, Hungary and Poland have faced criticism for their non-cooperative stance. Several delegations have explicitly expressed doubts about the trustworthiness of Poland and Hungary, alleging that they exploit domestic issues at the EU level to appeal to their national audience (Interviews 12 and 16–18).<sup>13</sup> On the one hand, Maltese and Irish contestation was channelled in a way that the countries' concerns were heard. For instance, in the case of Malta, a note was added that the EU's position on SRHR did not include Malta. On the other hand, according to multiple interviewees,

<sup>13</sup>For a more in-depth analysis on how populist governments contest procedural norms at the Council, see Juncos and Pomorska (2021).

Hungary and Poland began to vehemently oppose the inclusion of SRHR on the COHOM (Working Party on Human Rights) and CODEV agenda (Interviews 7, 9, 10, 12, and 14–16).

SRHR contestation by Hungary and Poland did not immediately impact the EU's consensus. The institutionalised process, whereby a country is assured that the EU's international position on SRHR does not induce domestic compliance, remained in effect. For instance, tensions arose during the negotiations for the post-Cotonou agreements, finalised in April 2021, as progressive and opposing Member States clashed on the issue. Progressive countries, including Finland, Sweden and Denmark, sought to enhance women's rights through an updated SRHR section. Opposing countries such as Hungary, Malta and Poland expressed concerns about the connection between reproductive rights and abortion. Whilst Malta quickly withdrew its opposition, Poland entered a reservation on the EU mandate, which was later lifted following an official statement assuring that the SRHR clauses would not mandate Member States to amend their national legislation (Carbone, 2019, p. 145). Thus, despite Poland's opposition, the EU's position on SRHR remained resilient and the post-Cotonou agreement referenced the agreed language on SRHR found in the 2015 Conclusions.

Whilst Poland aimed to safeguard its national interests, Hungary concentrated on fortifying the coalition of actors opposing SRHR. An illustration of this is the World Congress of Families (WCF), which unites opponents of SRHR from Islamic, Catholic and post-Soviet states. Hungary, for instance, hosted the 11th WCF in 2017. On that occasion, Hungarian Prime Minister Viktor Orbán stated that 'Central Europe [...] has a special culture. It is different from Western Europe'. In his opinion, 'every European country has the right to defend its Christian culture, and the right to reject the ideology of multiculturalism [...] and to defend the traditional family model'. Hungary perceives SRHR as a threat to the nation's survival. With this objective, Hungary endeavours to reshape European policy on SRHR.

Despite the above, deliberations within CODEV and COHOM remained consensual and seldom elevated to the level of PSC (Political and Security Committee) and/or COREPER II (Committee of Permanent Representatives),<sup>14</sup> as it is typically observed for Item 4 concerning human rights and the Human Rights Council. Considering this aspect, it has been emphasised that the shared understanding achieved at the working group level might not be upheld if the issue were to be deliberated at the COREPER II level (Interviews 8, 10, 11 and 15). Hence, it seems that SRHR at the EU level is effectively shielded from national-level pressures.

But, as interviewees noted, the US inclination to undermine the norm led to polarisation within CODEV. Initially, this yielded a positive outcome, encouraging silent actors—those whose foreign policy does not prioritise women's rights—to take a stance on the issue. It showed that a significant number of Member States, even traditionally reticent ones like Romania or Cyprus, were in agreement with the EU language on SRHR (Interviews 13 and 14).

<sup>14</sup>The EU's decision-making system since the Lisbon Treaty of 2009 is organised as follows. At the lowest level are the Working Parties, and at a higher level is the PSC, which in turn sits below COREPER II. Above COREPER II, there are only two additional levels: the European Council and the Foreign Affairs Council, which is hierarchically below the former.



In successive CODEV meetings addressing SRHR, a pattern materialised with 25 countries consistently endorsing the agreed language, whereas Hungary and Poland initially took a dissenting position. Nonetheless, by each meeting's conclusion, both Hungary and Poland eventually aligned themselves with the majority. In other words, the actions of the United States appeared to trigger a new episode of contestation that reinforced the norm in the EU. During this phase, Member States became progressively more vocal in defending the norm.

However, contestation against SRHR reached its zenith when Trump, at the international level, provided Hungary and Poland with direction and intention in their endeavour to reshape the norm within EU foreign policy. This is shown by the Geneva Consensus Declaration presented by the United States in October 2020. The so-called Geneva Consensus reframed reproductive health, emphasising that under no circumstances should abortion be promoted as a method of family planning. In other words, the supporters of the Geneva Consensus sought to advance an illiberal version of SRHR based on the aim to exclude women's rights from public discourse and policies, diminishing their autonomy and removing their ability to make decisions regarding their reproductive health in a private and personal setting.

In the field of reproductive rights, the norm was renationalised based on an anti-multilateralism sentiment. It was based on the argument that such rights can only be provided by the sovereign state and can in no case be the object of discussion at the international level. In other words, the United States created an illiberal international alternative to the norm. More significantly for the EU, the SRHR illiberal alternative led Hungary and Poland to exert dissidence from their commitment to SRHR. An indication of this can be observed in Hungary's co-sponsorship of the document, with Poland also putting their signature to it.

Within the EU, the immediate impact of the Geneva Consensus was notable. Shielded by an illiberal international norm, Hungary and Poland directed their focus towards the GAP, which includes a specific chapter on SRHR. The negotiations of the GAP III occurred during a period when SRHR was not only salient at the international level but also highly important in Poland due to the Constitutional Tribunal's ruling enforcing an almost complete ban on abortion. In a virtual meeting forced by the COVID-19 pandemic, Poland, and to a greater extent Hungary (noted for continuous negotiations with colleagues whilst receiving instructions by phone from Budapest), blocked CODEV from adopting the GAP as Council Conclusions (Interview 18). This marked the end of the permissive consensus on SRHR (Hooghe and Marks, 2009).

This prompted Germany, then serving as the chair of CODEV, to downgrade the final document by opting for the GAP as Chair's Conclusions. This decision was a daring one, as the German delegate initially intended to bring up the matter at the ambassadorial level but was concerned that doing so might require accommodating the perspectives of the two opposing countries at that level. But this coincided with the already crowded agenda at the upper echelons with discussions on the EU's COVID-19 recovery plan, which worked in favour of this tactic of keeping GAP at the CODEV level. It is also worth mentioning that another rationale raised to justify the ostracisation of Hungary and Poland was the minimal impact their development budget would have had on the successful implementation of GAP II (Interview 18). Even more significant was the Commission's perspective, deeming the Conclusions a mere formality given its autonomy in drafting and

implementing many of the GAP provisions (Interviews 1–3). Ultimately, adopting GAP III as Presidency Conclusions, in December 2020, was perceived as the sole option Germany found to preserve the content of the Plan without conceding to the views of the two opposing countries. In this vein, GAP III echoed the 2015 common position on SRHR.

The events can be viewed as additional indications of the resilience of SRHR within the EU. In other words, the challenges to the norm have not only reinforced the content of the norm but also demonstrated its robustness as actors openly questioning the validity were symbolically expelled (i.e., ostracised) from the EU community. Analogous to the situation with the Hungarian delegation during the UN Global Compact for Migration negotiations (Badell, 2020), the EU symbolically ousted Poland and Hungary from the EU normative community.

This symbolic expulsion was highlighted in the Presidency Conclusions, marking the first instance of an analysis of the current state of the norm. This evaluation garnered the signatures of 24 Member States, with Bulgaria also initially refraining from adherence. Consequently, the Conclusions asserted the imperative to ‘safeguard achievements made on gender equality and women and girls’ full enjoyment of all human rights and their empowerment against any deterioration and backlash’. For the first time, an EU document expressed deep concern and regret that gender equality, the empowerment of women and girls and their full enjoyment of all human rights, including SRHR, were under threat, questioned and facing setbacks amid shrinking civil, democratic and civic space globally (Council of the EU, 2020). In essence, the Presidency Conclusions demonstrated the collective readiness of the vast majority of Member States, the European Commission and the European Parliament, to defend and protect SRHR.

### *Bouncing Back: Channelling (2021–)*

Undergoing a significant shift in 2021, the international scenario marked a notable change with the Trump factor gone. In January, Biden assumed the US presidency, pledging to re-anchor the country to multilateralism. In line with this commitment, he reinstated the country’s support for SRHR by withdrawing the United States from the Geneva Consensus.<sup>15</sup> In essence, the illiberal alternative to SRHR lost its major supporter, leading to Poland and Hungary losing the international shelter they had enjoyed during their contestation of GAP III. In a less polarised international setting, the EU was able to reinstate the SRHR to its 2015 normative consensus. This is illustrated by the unanimous adoption of the Team Europe Conclusions in April, which echoes the existing SRHR consensus from the 2015 Council Conclusions.

Despite persistent disputes over SRHR within the EU, the shift of Hungary and Poland<sup>16</sup> from the December 2020 GAP III to the April 2021 Team Europe Conclusions seems to indicate that validity contestation does not necessarily result in the erosion of

<sup>15</sup>Brazil’s and Colombia’s new presidents followed suit in 2022 and 2023, respectively.

<sup>16</sup>The 2023 general election in Poland saw Donald Tusk appointed as prime minister. In February 2024, he declared his plan to introduce legislation aimed at easing the nation’s near-total abortion restrictions. On top of that, Tusk has also promised to pave the way for legalised same-sex unions. This change in stance not only implies a significant departure from past administrations but also has the potential to leave Hungary as the sole dissenting voice on SRHR within the EU, greatly reducing the likelihood of validity disputes arising.

SRHR. In fact, the resurgence of SRHR in the Team Europe Conclusions offers compelling evidence of the norm's remarkable resilience within EU foreign policy.<sup>17</sup>

## Conclusions

This article has studied the SRHR contestation dynamics within the EU foreign policy. In line with the symposium's introduction, it highlights the resilience of the norm, in the face of contestation. In the analysed period (1997–2021), we have shown SRHR resilience strengthened in three different stages: a norm internalisation based on creating institutional space for contestation (1997–2017), a fracture of the norm community resulting in the expulsion of the out-group (2020) and a norm bouncing back to its previous status (2021).

The period from 1997 to 2017 was characterised by the following institutionalisation of norm contestation. During this time, formal deliberative contestation channels were established to articulate the strategic calculation by reluctant Member States to express their objections to the norm. This was the case of Italy's objections during the Conclusions on Population and Aid in 1997, Malta's accession agreement in 2004 and Poland's involvement in the negotiations of the Post-Cotonou agreement. In each of these instances, the EU reaffirmed its commitment to non-interference in Member States' policies on women's reproductive rights, whilst also emphasising that the EU could promote the norm globally. In other words, contestation surrounded the norm's application.

Nevertheless, in the period 2017–2020, this institutionalisation reached its limit. Hungary's and Poland's internal contestation joined efforts with the US external contestation, to propose an alternative norm to SRHR. Consequently, the two countries voted against the adoption of GAP III as Council Conclusions. This development resulted in the emergence of a distinct demarcation between actors supporting SRHR and those opposing it. As a result, a majority of actors endorsed the EU's position on SRHR, resulting in the ostracisation of Hungary and Poland, which at the time were governed by right-wing populist parties, from the EU's normative community. This finding refutes the literature on norm contestation, as the validity contestation initiated by Hungary and Poland did not undermine the norm. Furthermore, choosing to enforce the in-group community yielded benefits, as in a less polarised international environment in 2021 (with the United States returning to the international SRHR consensus), Hungary and Poland re-entered the EU's normative consensus on SRHR.

Given these considerations, it is essential to delve into further research. First and foremost, it is necessary to investigate whether the institutionalisation of the norm observed in the period 1997–2017 persists, with the norm bouncing back in 2021. Also, whilst this article has highlighted the resilience of SRHR within EU foreign policy, examining the repercussions of such contestation beyond the EU becomes imperative. Specifically, investigating whether the EU has sustained its promotion of the norm globally during this period or has opted to concentrate on defending the norm within the Council bodies. This potential paradox might have enduring implications for the EU's normative power—

<sup>17</sup> Another instance illustrating this shift concerning SRHR and gender equality on a broader scale is the strong condemnation by the EU (and the United States) in March 2021 regarding Türkiye's withdrawal from the Istanbul Convention. The High Representative explicitly called on the country to overturn this decision, emphasising its perilous implications for the rights of women and girls in Türkiye and globally (EEAS, 2021). Additionally, the EU's ratification of the Istanbul Convention in June 2023, after 6 years of negotiations and deliberations, is also a milestone to take into account.

maintaining the status quo within the EU whilst potentially weakening it beyond the Union. This dynamic could offer insights into why the president of the European Council, Michel, accommodated the African Union's request to remove a clause addressing SRHR in their 2022 Joint Communication with the EU.

### Acknowledgments

I extend my deepest gratitude to Esther Barbé, Oriol Costa, Ana Juncos, and Helene Sjurson for their invaluable feedback. My thanks also go to the three anonymous reviewers for their insightful comments. This work was supported by Spanish Ministry of Innovation and Science, Research Project: The Emergence of European Sovereignty in a World of Systemic Rivalry: Strategic Autonomy and Permissive Consensus (EUSOV), Grant Agreement: PID2020-116443GB-I00, and by the COST Action ENTER (EU Foreign Policy Facing New Realities, grant number CA17119), supported by COST (European Cooperation in Science and Technology).

### Correspondence:

Diego Badell, Universitat Autònoma de Barcelona, Cerdanyola del Vallés, Spain.  
email: [diego.badell@uab.cat](mailto:diego.badell@uab.cat)

### References

- Altheide, D., Coyle, M., DeVriese, K. and Schneider, C. (2008) 'Emergent qualitative document analysis'. In Hesse-Biber, S.N. and Leavy, P. (eds) *Handbook of Emergent Methods*. New York: The Guilford Press, pp. 127–151.
- Badell, D. (2020) 'The EU, Migration and Contestation: The UN Global Compact for Migration, From Consensus to Dissensus'. *Global Affairs*, Vol. 6, No. 4–5, pp. 347–362. <https://doi.org/10.1080/23340460.2020.1871301>.
- Badell, D. (2023) 'Norm Contestation in EU Foreign Policy: Understanding the Effects of Opposition and Dissidence'. *Cambridge Review of International Affairs*, pp. 1–20.
- Barbé, E. and Badell, D. (2023) 'Chasing Gender Equality Norms: The Robustness of Sexual and Reproductive Health and Rights'. *International Relations*, Vol. 37, No. 2, pp. 274–297.
- Barbé, E., Costa, O. and Kissack, R. (2016) *EU Policy Responses to a Shifting Multilateral System*. London: Palgrave Macmillan.
- Berthet, V. (2022) 'United in Crisis: Abortion Politics in the European Parliament and Political Groups' Disputes Over EU Values'. *Journal of Common Market Studies*, Vol. 60, No. 6, pp. 1797–1814.
- Biedenkopf, K., Costa, O. and Góra, M. (2021) 'Introduction: Shades of Contestation and Politicisation of CFSP'. *European Security*, Vol. 30, No. 3, pp. 325–343.
- Bodur Ün, M. and Arikan, A. (2022) 'Europeanization and De-Europeanization of Turkey's Gender Equality Policy: The Case of the Istanbul Convention'. *Journal of Common Market Studies*, Vol. 60, No. 4, pp. 945–962.
- Bowen, G.A. (2009) 'Document Analysis as a Qualitative Research Method'. *Qualitative Research Journal*, Vol. 9, No. 2, pp. 27–40.
- Carbone, M. (2019) 'The Calm After the Storm: Plurilateral Challenges to the Post-2020 EU–ACP Partnership'. *Journal of Common Market Studies*, Vol. 57, No. 1, pp. 141–151.
- Checkel, J.T. (2001) 'Why Comply? Social Learning and European Identity Change'. *International Organization*, Vol. 55, No. 3, pp. 553–588.
- Checkel, J.T. (2005) 'International Institutions and Socialization in Europe: Introduction and Framework'. *International Organization*, Vol. 59, No. 4, pp. 801–826.

- Costa, O., Juncos, A.E., Müller, P., and Sjursen, H. (Forthcoming) 'Contested but Resilient. Accounting for the Endurance of EU Foreign Policy'. *Journal of Common Market Studies*.
- Council of the EU (2015) *Council Conclusions on Gender in Development*. Brussels: Council of the EU.
- Council of the EU (2020) *Presidency Conclusions on the Gender Action Plan (GAP) III 2021–2025—An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action*. Brussels: Council of the EU.
- Deitelhoff, N. and Zimmermann, L. (2020) 'Things We Lost in the Fire: How Different Types of Contestation Affect the Robustness of International Norms'. *International Studies Review*, Vol. 22, No. 1, pp. 51–76.
- EEAS. 2015. Statement by First Vice-President Timmermans, High Representative/Vice-President Mogherini and Commissioners Mimica, Avramopoulos, Thyssen, Stylianides and Jourová on the Occasion of International Women's Day.
- EEAS (2021) Turkey: Statement by High Representative/Vice-President Josep Borrell on Turkey's Withdrawal of the Istanbul Convention.
- Elgström, O. (2000) 'Norm Negotiations. The Construction of New Norms Regarding Gender and Development in EU Foreign Aid Policy'. *Journal of European Public Policy*, Vol. 7, No. 3, pp. 457–476.
- Gilby, L., Koivusalo, M. and Atkins, S. (2021) 'Global Health Without Sexual and Reproductive Health and Rights? Analysis of United Nations Documents and Country Statements, 2014–2019'. *BMJ Global Health*, Vol. 6, No. 3, pp. 1–10.
- Guerrina, R. and Wright, K. (2016) 'Gendering Normative Power Europe: Lessons of the Women'. *Peace and Security, International Affairs*, Vol. 92, No. 2, pp. 293–312.
- Hoffmann, M.J. (2010) 'Norms and social constructivism in international relations'. In *Oxford Research Encyclopedia of International Studies*. Oxford University Press, pp. 1–24.
- Hooghe, L. and Marks, G. (2009) 'A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus'. *British Journal of Political Science*, Vol. 39, No. 1, pp. 1–23.
- Jenichen, A. (2022) 'The Politics of Normative Power Europe: Norm Entrepreneurs and Contestation in the Making of EU External Human Rights Policy'. *Journal of Common Market Studies*, Vol. 60, No. 5, pp. 1299–1315.
- Johansson-Nogués, E., Vlaskamp, M. and Barbé, E. (2020) *European Union Contested*. Springer.
- Juncos, A. and Pomorska, K. (2006). Playing the Brussels Game: Strategic Socialisation in the CFSP Council Working Groups. *European Integration Online Papers*.
- Juncos, A. and Pomorska, K. (2021) 'Contesting Procedural Norms: The Impact of Politicisation on European Foreign Policy Cooperation'. *European Security*, Vol. 30, No. 3, pp. 367–384.
- Kantola, J. and Rolandsen-Agustin, L. (2016) 'Gendering Transnational Party Politics: The Case of European Union'. *Party Politics*, Vol. 22, No. 5, pp. 1–11.
- Katzenstein, P. (1996) *The Culture of National Security: Norms and Identity in World Politics*. New York: Columbia University Press.
- Klotz, A. (1999) *Norms in International Relations: The Struggle Against Apartheid*. Ithaca: Cornell University Press.
- Krook, M.L. and True, J. (2012) 'Rethinking the Life Cycles of International Norms: The United Nations and the Global Promotion of Gender Equality'. *European Journal of International Relations*, Vol. 18, No. 1, pp. 103–127.
- Macrae, H. (2010) 'The EU as a Gender Equal Polity: Myths and Realities'. *Journal of Common Market Research*, Vol. 48, No. 1, pp. 155–174.
- Manners, I. (2002) 'Normative Power Europe: A Contradiction in Terms?' *Journal of Common Market Studies*, Vol. 40, No. 2, pp. 235–258.

- Saltnes, J.D. and Thiel, M. (2021) 'The Politicization of LGBTI Human Rights Norms in the EU-Uganda Development Partnership'. *Journal of Common Market Studies*, Vol. 59, No. 1, pp. 108–125.
- Sanders, R. (2018) 'Norm Spoiling: Undermining the International Women's Rights Agenda'. *International Affairs*, Vol. 94, No. 2, pp. 271–291.
- Schimmelfennig, F. (2000) 'International Socialisation in the New Europe: Rational Action in an Institutional Environment'. *European Journal of International Relations*, Vol. 6, No. 1, pp. 109–139.
- Thevenin, E., Liedlbauer, L. and Petri, F. (2020) 'Conclusions on Contestation of EU Foreign Policy: Diverse Causes, Various Modes and Multiple Effects?' *Global Affairs*, Vol. 6, No. 4–5, pp. 451–459.
- Tonra, B. (2001) *The Europeanisation of National Foreign Policy: Dutch, Danish and Irish Foreign Policy in the European Union*. London: Routledge.
- Wagner, W. (2017) 'Liberal Power Europe'. *Journal of Common Market Studies*, Vol. 55, No. 6, pp. 1398–1414.
- Wiener, A. (2009) 'Enacting Meaning-in-Use: Qualitative Research on Norms and International Relations'. *Review of International Studies*, Vol. 35, No. 1, pp. 175–193.
- Wiener, A. (2014) *A Theory of Contestation*. Basingstoke: Springer.

## List of interviews

#	Position	Date
1.	EU official	2/10/2020
2.	EU official	2/10/2020
3.	EU official	2/10/2020
4.	CSO	19/10/2020
5.	CSO	19/10/2020
6.	CSO	22/10/2020
7.	Member State representative in the EU	22/9/2020
8.	Member State representative in the EU	8/10/2020
9.	Member State representative in the EU	15/10/2020
10.	Member State representative in the EU	16/10/2020
11.	Member State representative in the EU	30/10/2020
12.	Member State representative in the EU	23/11/2020
13.	Member State representative in the EU	26/11/2020
14.	Member State representative in the EU	26/11/2020
15.	Member State representative in the EU	15/1/2021
16.	Member State representative in the EU	1/2/2021
17.	Member State representative in the EU	9/2/2021
18.	Member State representative in the EU	7/5/2021