BETWEEN NORMS AND INTERESTS: THE EFFECTIVENESS AND SELECTIVITY OF EU MECHANISMS FOR THE PROTECTION OF HUMAN RIGHTS IN FOREIGN POLICY

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Abstract

The European Union presents the protection and promotion of human rights as a core objective of its external action and has developed a wide range of instruments to pursue it. This paper examines five of these mechanisms: conditionality, human rights clauses in international agreements, restrictive measures, diplomatic dialogue and external financial assistance. Rather than describing each instrument in isolation, it asks how effective they are in practice and why they are applied with varying degrees of consistency towards different states. Methodologically, the paper combines an analysis of the relevant legal framework and policy documents with a review of the academic literature on each instrument, and it takes into account recent developments such as the Global Human Rights Sanctions Regime adopted in 2020 and the external financing instruments for the period 2021–2027. The analysis suggests that the main weakness of the Union's approach does not lie in a lack of instruments, but in the selective way in which they are activated. Conditionality proves most effective where the prospect of membership is credible, as the case of North Macedonia illustrates. Human rights clauses, by contrast, are rarely invoked against important partners, targeted sanctions tend to work more as a signal than as a tool for changing behaviour, and quiet diplomacy depends heavily on the willingness of the partner state. Financial assistance, for its part, offers the most constructive means of supporting long-term reform, yet it raises the question of whether reforms are substantive or merely formal. The paper concludes that the effectiveness of the Union's human rights mechanisms depends less on their legal design than on political will, the consensus of the Member States and the strategic weight of the state concerned, and that greater consistency would strengthen the credibility of the Union as a global actor.

Keywords: *conditionality, essential elements clause, restrictive measures, political dialogue, external assistance, Copenhagen criteria*

1. Introduction

Under the Treaty on European Union, the Union's action on the international scene is to be guided by democracy, the rule of law and the universality and indivisibility of human rights.[1] Within its external action, the EU has a number of instruments through which it seeks to protect and promote human rights worldwide.[2] These instruments combine legal and political means and are applied depending on the specific context and on the Union's relations with the third country concerned. Through them, the EU does not merely react to human rights violations; it also actively tries to influence how these rights are respected and advanced. In this paper, the term "mechanism" refers to the concrete legal, political and diplomatic instruments available to the Union for influencing the behaviour of third states and other international actors. Broadly, they fall into five categories: conditionality, international agreements and human rights clauses, sanctions, diplomatic dialogue and economic assistance. Each of them plays a specific role and is effective to a different degree, depending on the political context.

The existence of these instruments, however, says little about how well they work in practice. Although the Union presents human rights as a universal value, the choice of instruments is often politically motivated. The main problem therefore lies not in a lack of mechanisms, but in their selective use: when, and against whom, the Union decides to activate them. The

[1] Consolidated Version of the Treaty on European Union, OJ C 202, 7 June 2016, Article 21(1).
[2] European Commission and High Representative of the Union for Foreign Affairs and Security Policy, *EU Action Plan on Human Rights and Democracy 2020–2024*, JOIN(2020) 5 final (Brussels, 2020), extended until 2027 by the Council in May 2024.

literature has long pointed to this gap, describing EU human rights policy as "universal in discourse, flexible in practice".[3]

This paper continues this analysis by looking at the concrete mechanisms and addressing two questions. First, how effective are the Union's main human rights instruments, and under what conditions do they produce results? Second, why are they applied with such different degrees of consistency towards different states? Instead of describing each instrument separately, the paper compares them and takes into account recent developments, in particular the Global Human Rights Sanctions Regime adopted in 2020[4] and the external financing instruments for the period 2021–2027.[5]

The paper is based on an analysis of the relevant legal acts and policy documents combined with a review of the academic literature on each instrument, and it illustrates the argument with examples from the Union's practice, including its relations with North Macedonia. Section 2 examines the five mechanisms in turn: conditionality, human rights clauses, restrictive measures, diplomatic dialogue and financial assistance. Section 3 compares them and identifies the factors that explain why their effectiveness varies, and Section 4 concludes.

2. The Mechanisms in Practice

2.1 Conditionality

Conditionality is a strategic mechanism through which the Union sets political and legal conditions, particularly in the field of human rights, that third states must meet in order to obtain certain benefits or forms of cooperation. It is used in several areas: in the prospect of membership, in the conclusion of international agreements and in the provision of financial and technical assistance. Its purpose is to secure respect for, and the advancement of, human rights by bringing states into line with the Union's values and standards.[6]

In practice, conditionality works through concrete criteria: the EU links the fulfilment of conditions to the benefits a country receives before it can move to the next stage. It plays an especially important role in enlargement, where candidate countries must meet the Copenhagen criteria, which include stable institutions guaranteeing democracy, the rule of law and respect for human rights.[7]

The literature offers a useful explanation of when conditionality works. Analysing the enlargement to Central and Eastern Europe, Schimmelfennig and Sedelmeier show that the transfer of EU rules is best explained by an external incentives model, in which effectiveness depends above all on the credibility of EU conditionality and on the domestic costs of adopting the required rules.[8] Put simply, conditionality works when the reward is real and within reach, and when the reforms demanded do not threaten the position of the governing elites. Where membership is distant or uncertain, the Union's leverage weakens considerably.[9]

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[3] Selin Merzuka Türkeş, 'Human Rights in European Union's Foreign Policy: Universal in Discourse, Flexible in Practice', *RECON Online Working Paper* 2011/21 (2011).

[4] Council Decision (CFSP) 2020/1999 of 7 December 2020 concerning restrictive measures against serious human rights violations and abuses, OJ L 410 I, 7 December 2020, p. 13; Council Regulation (EU) 2020/1998 of 7 December 2020, OJ L 410 I, 7 December 2020, p. 1.

[5] Regulation (EU) 2021/947 of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, OJ L 209, 14 June 2021; Regulation (EU) 2021/1529 of 15 September 2021 establishing the Instrument for Pre-Accession Assistance (IPA III), OJ L 330, 20 September 2021.

[6] Ramses A. Wessel and Joris Larik (eds), *EU External Relations Law: Text, Cases and Materials* (2nd edn, Oxford: Hart Publishing, 2020), pp. 12–14.

[7] European Council, *Conclusions of the Presidency*, Copenhagen European Council, 21–22 June 1993, p. 13.

[8] Frank Schimmelfennig and Ulrich Sedelmeier, 'Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe', *Journal of European Public Policy* 11, no. 4 (2004), pp. 661–679.

[9] Frank Schimmelfennig and Ulrich Sedelmeier, 'The Europeanization of Eastern Europe: The External Incentives Model Revisited', *Journal of European Public Policy* 27, no. 6 (2020), pp. 814–833.

The experience of North Macedonia shows how fragile this credibility can be. The country applied for membership in March 2004 and was granted candidate status in December 2005, yet the first intergovernmental conference was held only in July 2022.[10] For much of this period, the delay was caused not by a failure to meet the Copenhagen criteria but by bilateral disputes, first with Greece over the country's name, settled by the Prespa Agreement in 2018, and then with Bulgaria over questions of history and language.[11] From the perspective of the external incentives model, such delays undermine the credibility of the reward and, with it, the Union's leverage over domestic reforms, including those concerning human rights and the rule of law. The case shows that conditionality can lose its force not only when the Union is too lenient towards strategic partners, but also when the accession process becomes hostage to the bilateral interests of individual Member States.

Although conditionality is one of the Union's most important mechanisms, it is therefore not always applied consistently. The EU may show greater flexibility towards some states than towards others, depending on its political and economic interests, which points to a degree of selectivity in the application of human rights standards.

2.2 International Agreements and Human Rights Clauses

Besides conditionality, the EU promotes human rights through its international agreements. Human rights clauses, usually formulated as "essential elements clauses", make respect for human rights a fundamental condition for maintaining the contractual relationship. If the clause is breached, the EU may take appropriate measures, such as suspending the agreement, limiting cooperation or applying additional political and economic pressure. In this way human rights acquire a concrete legal dimension.[12]

Bartels traces the systematic use of these clauses back to the early 1990s and explains that their purpose is to entitle a party to take appropriate measures, including suspension of the agreement, when the other party violates human rights or democratic principles.[13] Whether the clauses actually improve the situation on the ground is a harder question. Hafner-Burton finds that trade agreements containing human rights provisions have made a positive difference in some cases, but she also stresses that their mere inclusion is no guarantee of real change, since many signatory governments have no intention of enforcing them.[14] A recent study for the European Parliament reaches a similar conclusion for the EU: although human rights clauses have become well-established tools and have been updated several times, they are rarely used in practice, even in countries such as Ethiopia, Tunisia and Vietnam, where the human rights situation has deteriorated.[15]

It is here that selectivity becomes most visible. Although the Union formally presents human rights as a universal and inviolable value, its reactions are not always the same but depend on the wider political and economic context.[16] Strategic interests, security concerns and economic relations can lead to compromises in the application of human rights standards, and the

[10] Council of the European Union, 'North Macedonia', available at: https://www.consilium.europa.eu/en/policies/enlargement/republic-north-macedonia/ (accessed 30 October 2026).

[11] Valentina Dimitrievska, 'North Macedonia to Embark on EU Accession Talks after 17 Years of Setbacks', *bne IntelliNews*, 16 July 2022.

[12] Lorand Bartels, *Human Rights and Sustainable Development Obligations in EU Free Trade Agreements* (Cambridge: Cambridge University Press, 2013).

[13] Lorand Bartels, *Human Rights Conditionality in the EU's International Agreements* (Oxford: Oxford University Press, 2005).

[14] Emilie M. Hafner-Burton, *Forced to Be Good: Why Trade Agreements Boost Human Rights* (Ithaca: Cornell University Press, 2009).

[15] European Parliament, Directorate-General for External Policies, *Enhancing the Effectiveness of Human Rights Clauses in EU Agreements with Third Countries? The Cases of Ethiopia, Tunisia and Vietnam* (Brussels, 2024).

[16] Wessel and Larik, *EU External Relations Law*, pp. 20–22.

different treatment of different states can fairly be described as a double standard. This does not mean that human rights are marginalised, but rather that their application depends on the real political circumstances in which the Union operates.

2.3 Restrictive Measures (Sanctions)

Sanctions, or restrictive measures, are an essential tool of the Common Foreign and Security Policy (CFSP), and the EU uses them to protect and promote human rights.[17] They include travel bans, asset freezes and economic restrictions designed to put pressure on specific actors.[18] In practice, EU sanctions are mostly directed at political elites, institutions or specific individuals in order to spare the civilian population, which marks an important difference from traditional comprehensive sanctions. They therefore have a dual function: they punish those responsible for violations and send a signal to the international community about which behaviour the Union finds unacceptable.

An important development came in December 2020, when the Council established the EU Global Human Rights Sanctions Regime.[19] Unlike earlier regimes, it is not tied to a particular country. It allows the Union to target individuals and entities responsible for serious violations, such as genocide, crimes against humanity, torture or slavery, wherever they occur. The first listings followed in March 2021 and included four Chinese officials and one entity in connection with the arbitrary detention of Uyghurs in Xinjiang, the first EU sanctions against China since the arms embargo of 1989.[20] China responded immediately with counter-sanctions, which shows both the symbolic weight of the measure and its political cost.

The effectiveness of sanctions nevertheless remains contested. In some cases they fail to bring about the expected political change and may even help to entrench the government of the sanctioned state. Portela's systematic study of EU sanctions examines the conditions under which they succeed and covers not only CFSP measures but also suspensions of development aid and the withdrawal of trade preferences.[21] Giumelli goes further, arguing that EU sanctions do not always impose a cost on the target, nor do they always seek to change its behaviour; they often serve to constrain or to signal, which calls for a new way of understanding how they work.[22] Sanctions also depend heavily on political will, since CFSP decisions require unanimity in the Council, which gives every Member State a *de facto* veto.[23] When strategically important partners are involved, the Union may therefore show restraint, which confirms that sanctions are at once a legal instrument and a political one.[24]

2.4 Diplomatic Dialogue

Alongside sanctions, the EU uses diplomatic dialogue as a softer mechanism. It is a process of communication, cooperation and negotiation with third states and international organisations, aimed at encouraging alignment with international human rights standards.[25] Based on engagement and partnership, it seeks to achieve positive change without coercion, through political contacts and diplomatic pressure. The dialogue is often institutionalised through

[17] Treaty on European Union, Article 29; Treaty on the Functioning of the European Union, Article 215.
[18] Wessel and Larik, *EU External Relations Law*, pp. 4–6.
[19] Council Decision (CFSP) 2020/1999; Council Regulation (EU) 2020/1998.
[20] Council Implementing Regulation (EU) 2021/478 of 22 March 2021, OJ L 99 I, 22 March 2021; Thomas Wahl, 'EU Imposes First Sanctions for Human Rights Violations', *eucrim*, 1 April 2021.
[21] Clara Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (London: Routledge, 2010).
[22] Francesco Giumelli, *How EU Sanctions Work: A New Narrative*, Chaillot Paper No. 129 (Paris: EU Institute for Security Studies, 2013).
[23] Treaty on European Union, Article 31(1); Marise Cremona, 'Structural Principles and their Role in EU External Relations Law', in Marise Cremona (ed.), *Structural Principles in EU External Relations Law* (Oxford: Hart Publishing, 2018), pp. 3–5.
[24] Nicola Casarini and Costanza Musu (eds), *European Foreign Policy in an Evolving International System: The Road Towards Convergence* (Basingstoke: Palgrave Macmillan, 2007), pp. 4–5.
[25] Wessel and Larik, *EU External Relations Law*, pp. 7–8.

regular bilateral and multilateral meetings, specialised human rights dialogues and political consultations, which also allow the EU to monitor the human rights situation in partner states over time.

The limits of this approach are, however, well documented. Kinzelbach's detailed study of the EU–China human rights dialogue, based on archival documents and interviews with officials and experts, reconstructs its development between 1995 and 2010 and concludes that its impact was tenuous, if not counterproductive.[26] Over time, the dialogue risked turning into a ritual that allowed the partner to deflect criticism rather than a tool for real change. This confirms what the Union's own practice suggests: the effectiveness of diplomatic dialogue depends largely on the political will of the partner state, and where that will is missing or interests clash, its impact remains limited. For this reason, dialogue is often combined with conditionality and sanctions in order to make it more effective.

2.5 Financial Assistance

Economic assistance rests on cooperation and on support for gradual and sustainable change.[27] Through funding, institutional support and technical expertise, the EU helps to strengthen democratic capacities, the judiciary and public administration, and in this way directly affects how human rights are enjoyed in practice. For the period 2021–2027, this assistance is delivered mainly through the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI), with a budget of around EUR 79.5 billion, and through the Instrument for Pre-Accession Assistance (IPA III), worth just over EUR 14 billion.[28] Both instruments finance projects on the rule of law, judicial independence, the fight against corruption, the protection of vulnerable groups, media freedom and civil society.

A key feature of EU assistance is that funding is linked to criteria concerning respect for human rights, democratic principles and the rule of law.[29] The NDICI Regulation states expressly that, because respect for democracy, human rights and the rule of law is essential for sound financial management and effective Union funding, assistance could be suspended where these principles deteriorate.[30] Two questions nevertheless remain open: whether the reforms supported are substantive or merely formal, and whether geopolitical and economic interests sometimes take priority over human rights.[31] Despite these limitations, financial assistance remains one of the most constructive instruments at the Union's disposal, precisely because it rests on partnership and long-term capacity building.

3. Comparative Analysis: Why Effectiveness Varies

Viewed side by side, the five mechanisms reveal a clear pattern, which Table 1 summarises.

[26] Katrin Kinzelbach, *The EU's Human Rights Dialogue with China: Quiet Diplomacy and Its Limits* (London: Routledge, 2015), especially chapter 8 and the Conclusion.
[27] Wessel and Larik, *EU External Relations Law*, pp. 8–10.
[28] European Parliament, 'Legislative Train: Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe', available at: https://www.europarl.europa.eu/legislative-train/theme-a-stronger-europe-in-the-world/file-mff-ndici (accessed 30 October 2026); Regulation (EU) 2021/1529, Article 4.
[29] Christophe Hillion, 'Conferral, Cooperation and Balance in the Institutional Framework of EU External Action', in Cremona (ed.), *Structural Principles in EU External Relations Law*, p. 118.
[30] Regulation (EU) 2021/947, recital 40.
[31] Cremona, 'Structural Principles', pp. 4–5.

Table 1: Comparison of EU human rights mechanisms (prepared by the authors)

Mechanism	Nature	Works best when	Main limitation	Example
Conditionality	Positive incentive	The reward is credible and within reach	Loses force when the process stalls or is blocked	North Macedonia, 2005–2022
Human rights clauses	Legal, treaty-based	The partner depends on EU trade or aid	Rarely invoked against important partners	Ethiopia, Tunisia, Vietnam
Restrictive measures	Coercive, targeted	Broad international coordination exists	Often symbolic; unanimity required	Xinjiang listings, 2021
Diplomatic dialogue	Soft, persuasive	The partner is willing to engage	Risk of becoming a ritual	EU–China dialogue, 1995–2010
Financial assistance	Cooperative, long-term	Reforms have domestic ownership	Formal rather than substantive reforms	NDICI and IPA III, 2021–2027

Three factors help to explain these differences. The first is the strategic weight of the state concerned. The more important a partner is for the Union's economic, energy or security interests, the less likely it is that clauses will be invoked or sanctions imposed, and the more the Union relies on dialogue.[32] The second factor is institutional. Instruments that depend on unanimity among the Member States, above all CFSP sanctions, are the most exposed to the interests of individual governments, while instruments managed by the Commission, such as financial assistance, are less exposed to such pressure.[33] The third factor is the credibility and size of the incentive. Conditionality and assistance work when the reward is attractive and reliable, but they lose their force when the reward is postponed for reasons that have nothing to do with human rights, as the bilateral vetoes on North Macedonia's accession talks showed. Taken together, these findings suggest that the weaknesses of the Union's human rights policy are structural rather than accidental. The legal design of the instruments is, on the whole, sound. What determines their success is the political context in which they are used, and in particular the willingness of the Member States to accept the costs of applying them consistently.

4. Conclusion

This paper set out to examine how effective the EU's human rights mechanisms are and why they are applied so unevenly. The Union has a wide range of instruments at its disposal, from conditionality and international agreements to sanctions, diplomatic dialogue and financial assistance, so its main weakness is not a lack of tools but the selective way in which they are activated. Conditionality is effective when the prospect of membership is credible, but the case of North Macedonia shows how easily that credibility can be eroded. Human rights clauses provide a solid legal basis for action, yet they are rarely invoked. Targeted sanctions, strengthened by the Global Human Rights Sanctions Regime of 2020, send clear signals but seldom change the behaviour of their targets on their own. Diplomatic dialogue can build trust,

[32] See sections 2.2 and 2.4 above.
[33] Treaty on European Union, Article 31(1).

but without the partner's willingness it risks becoming a ritual. Financial assistance remains the most constructive instrument, provided that the reforms it supports are real rather than formal.

Despite the diversity of these instruments, their effectiveness depends to a large extent on political will and on the context in which they are applied. Greater consistency would require continuous monitoring and the consistent application of the criteria that the Union itself has set, clearer and more transparent rules on when human rights clauses and sanctions are to be invoked, closer coordination between the different instruments, and an accession process that is protected from bilateral disputes unrelated to the Copenhagen criteria. Such steps would not remove the tension between norms and interests, which is built into the Union's foreign policy, but they would narrow the gap between what the Union promises and what it delivers, and in doing so strengthen its credibility as a global defender of human rights.

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