

HOW DID LGBTQ TAKE OVER THE EU?



CARLTON BRICK

**HOW THE EU USED LGBTQ
ADVOCACY TO DEMONISE THE EAST**

Contents

1. Executive summary	4
2. Introduction	5
3. LGBTQ NGOs and EU conditionality	7
3.1. The Treaty of Amsterdam & the rise of ILGA-Europe	7
3.2. LGBTQ NGOs as supranational entities	7
3.3. The undemocratic structures of LGBTQ advocacy	8
3.4. ILGA’s place in the NGO-industrial complex	9
4. New Europe, old prejudices: the “problem of the east”	10
4.1. Accession & the 2004 enlargement	10
4.2. The Copenhagen criteria & the Treaty of Amsterdam	10
4.3. The “problem of the east”	11
4.4. Muscular conditionality	12
5. The weaponisation of LGBTQ rights: the policy framework	13
5.1. Kosovo and the limits of conditionality	13
5.2. New regulatory framework	13
5.3. Lisbon Treaty	14
5.4. The LGBTQ tool kit	15
5.5. Hostility to national sovereignty	16
6. LGBTQ advocacy and the “norm violators”	17
6.1. The nation state as “anti-gender”	17
6.2. Eastern societies as “norm violators”	17
6.3. The transgender curriculum	17
6.4. The expansion of Article 2	18
6.5. Shared culture vs LGBTQ	18

7. LGBTQ NGOs: disempowering the public	20
7.1. Transnational actors and bypassing the public	20
7.2. LGBTQ “civil actors” as “uncivil disrupters”	21
7.3. EU enlargement and the LGBTQ agenda	22
7.4. The politicisation of sexual identity	22
8. Conclusion: a return to the nation state	23
9. Recommendations	24
About the author	25
Endnotes	26

1. Executive summary

- Over the last 20 years, LGBTQ rights have become the cornerstone of post-Cold War European Union “values”. Moreover, the EU’s promotion of LGBTQ rights is increasingly viewed through the prism of transgender ideology.
- The issue of sexual rights has been weaponised to demonise EU Member States of Central and Eastern Europe
- The 1999 Treaty of Amsterdam marked a turning point in the EU’s legislative mainstreaming of sexual rights, enabling it to weaponise LGBTQ advocacy as the prime measure of a new European ideal. The treaty empowered quasi-governmental and non-governmental organisations such as ILGA-Europe (International Lesbian & Gay Association-Europe) to prosecute this ideal.
- ILGA-Europe has played a key role in branding Central and Eastern European states as problematic “norm violators” and has been at the forefront of the EU’s attack on the civil culture within these societies.
- Through the politicisation of sexual identity, the EU has deliberately sought to disrupt and polarise the political and civil cultures of the countries of Central and Eastern Europe. The top-down and divisive character of this strategy undermines the decision-making capacity of national institutions, thereby disenfranchising national electorates. This is now being extended to Europe more broadly.

2. Introduction

In June 2021, the Hungarian Parliament passed a law which prohibits access to content that portrays 'divergence from self-identity corresponding to sex at birth, sex change or homosexuality' for individuals under the age of 18.¹

Europe's LGBTQ NGOs have interpreted the law as anti-LGBTQ discrimination and a breach of European Union fundamental rights and values. Europe's leading LGBTQ NGO, ILGA- Europe (International Lesbian & Gay Association-Europe) has called upon the EU and its Member States to censure and punish Hungary by withholding funding that it is eligible for under the terms of its accession to the EU in 2004.²

“Sexual identity has become core to how the European Union understands itself, and now frames both its internal and external relations.”

Hungarian prime minister Victor Orbán has been accused of stoking anti-LGBTQ sentiment, in much the same way as he has been accused of using anti-migrant policies to gain political advantage. The law has been characterised as the latest attempt by Orbán's government to wage a “new Cold War” on liberal European values, and an attempt to prop up a “neoliberal neopatriarchy”.³

In July 2021 the European Commission began infringement proceedings against Hungary.

Central and Eastern European countries have come under increasing criticism and scrutiny from the European and international political community over their resistance to EU law on sexual identity. In 2019 Poland was censured by the European Parliament for creating a national network of so-called LGBTQ-Free Zones. A subsequent European Parliament resolution called upon the European Commission and Council to ‘...ensure the full and proper application of Treaty [of Europe] principles and values,’ as anti-LGBTQ discrimination violates the core values of the European Union and the normative basis of European integration.⁴

In 2022 the European Parliament adopted a resolution ‘...combating rising hate against LGBTI people in Europe’.⁵ The resolution specifically targeted the Member States Hungary and Poland. Non-members the Russian Federation, Turkey and the recently departed UK were also included in the resolution.

Over the past 20 years, sexual identity has become core to the way in which the European Union defines its sense of self and now frames both its internal and external relations.⁶ LGBTQ human rights are now the “litmus test” by which a country's suitability for EU membership is measured.⁷ They have also become the touchstone of the EU's “identity” or “sense of self”.⁸ They are ‘part of a symbolic set of values that now defines the idea of contemporary Europe’.⁹ LGBTQ equality ‘has functioned to foster a supranational identity for the EU’ and its associated institutions.¹⁰ And ‘if any “other” wants to be part of this “self” then it should adopt and practice this identity and socialise these norms’.¹¹

Within the evolving elision between LGBTQ equality and EU values, the member countries of Eastern and Central Europe are largely considered extreme “norm violators”. LGBTQ advocacy groups play a key role in prosecuting this notion.

The most significant by far is ILGA-Europe which, since becoming an “official partner” of the EU in 1996, claims to support, collaborate with and act on behalf of over 700 LGBTI member organisations across Europe and central Asia.¹² It receives a European Commission operating grant of just under €1.2M, as well as grants from a range of global influencers such as George Soros' Open Society Foundation.¹³

ILGA-Europe plays a key advisory role in the “Open For Business” initiative, devoted to making the global business case for advancing LGBTQ+ rights through ‘creating advocates in the local business communities...to advance LGBTQ+ inclusion’, where they sit alongside global corporate interests such as Google and IKEA. “Open For Business” funds an LGBTQ+ “Local Influencer Programme” that endeavours ‘to support civil society in the region and build networks of business leaders committed to

Introduction

LGBTQ+ inclusion’ in what it describes as the “Problematic Countries” of Hungary, Poland, Romania, and Ukraine.¹⁴

Although they appear very recent, the conflicts between EU values and the governments of its Central and Eastern European Member States reflect long-standing anxieties about what it means to be European and what the EU itself stands for.¹⁵ These debates are expressions of a far deeper crisis of identity within the institutions of European integration that emerged in the post WW2 period.

“The EU’s obsession with LGBTQ is not based on a concern for minorities. Instead, it presumes the peoples of Central and Eastern Europe are incapable of building democratic societies for themselves.”

The Cold War characterisation of Europe’s Eastern states as a Soviet “other” was integral to the way that Europe’s supranational elites tried to ensure ideological coherence and institutional unity. In the present moment, informed largely by the fragmentation of these Cold War certainties, a new “East-West divide” is being established, wherein long-standing Western antagonisms and prejudices towards Eastern Europe are re-articulated through a new progressive “Europeanness” signalled by a supposed LGBTQ friendliness.

However, this process has been both limiting and divisive.¹⁶ This report does not argue that the countries of Central and Eastern Europe are somehow being wrongly accused and are in fact tolerant of non-normative identities and behaviours; in some cases they appear not to be. Rather, the report suggests that the EU’s obsession with LGBTQ is not based on a concern for minorities. Instead, it presumes the peoples of Central and Eastern Europe are incapable of building democratic societies for themselves.

It is in this spirit that this report approaches the EU’s recasting of LGBTQ advocacy as a marker of a modern post-Cold War “Europeanness”, within the wider historical context outlined above. Particular emphasis is placed upon the emerging role of LGBTQ NGOs – in particular ILGA-Europe – that have been

fostered by the EU as the vehicles through which sexual identity has been weaponised. The aim has been to problematise the ideal of national democratic sovereignty and re-legitimise the notion that the countries of Central and Eastern Europe are in some way “other” to the European ideal.

This report is organised around three central arguments:

1. *That the mainstreaming of LGBTQ rights within the EU is part of an attempt to reconstruct an idea of a “European” identity.*
2. *That the determined focus by LGBTQ NGOs on Eastern Europe as a problem area for LGBTQ rights represents a post-Cold War recasting of Western Europe’s political elites’ historical antipathy towards Central and Eastern Europe.*
3. *That this reflects the EU’s antipathy to national sovereignty, using LGBTQ rights as a vehicle through which it attempts to undermine Member States’ democratic autonomy.*

3. LGBTQ NGOs and EU conditionality

From the late 1990s, the EU enabled LGBTQ advocacy groups and NGOs such as ILGA-Europe, as key actors in weaponising sexual identity and rights. Key points were the EU's 2004 enlargement and the 1999 Treaty of Amsterdam, which established the terms and conditions upon which accession to the EU are conferred.

In 2004 the EU underwent its fifth enlargement, by far the biggest expansion to date. With 10 new countries, the EU increased its membership to 25. This is referred to as the "Eastern Enlargement", or the "Big Bang". The EU expanded to include three former Soviet Republics (Estonia, Latvia, and Lithuania), four former Soviet satellite states (Poland, Czech Republic, Hungary and Slovakia), Cyprus, Malta, and part of the former Yugoslav republic (Slovenia). The 2004 enlargement proved to be the most problematic and controversial of all EU expansions to date.

The process by which the 10 candidate countries were to join the EU was very different from previous enlargements. It was much longer, and also far more intrusive as it allowed the EU to intervene directly in the domestic policies and legislative structures of the accession countries. The 2004 enlargement process was also far more transformational in its scope than previous enlargements.¹⁷ During accession negotiations, the EU placed far greater emphasis on the need for candidate countries to change their ideas and norms.

3.1. The Treaty of Amsterdam & the rise of ILGA-Europe

The 1999 Treaty of Amsterdam established key benchmarks relating to sexual identity and rights – these are discussed in detail in the next section. The Treaty also allowed the EU to fund programmes specifically targeted at developing networks of "civil actors", charged with the responsibility of creating ideological change within the accession countries.

The Treaty of Amsterdam proved a pivotal moment for ILGA-Europe, providing both a financial and ideological context that allowed it to emerge as the leading LGBTQ rights NGO. Via the provisions of the Treaty, ILGA-Europe

was endowed with relatively unencumbered access to the EU and its institutions with access to core funding via an initial grant of €200,000. Charged with representing 'European LGBTQ organisations at the European Union, the Council of Europe, and the Organisation for Security and Cooperation in Europe' ILGA-Europe was co-opted as an official partner of the European Commission in 1998. Via European Commission funding, ILGA-Europe was for the first time able to pay two full time staff and establish a permanent head office in Brussels.¹⁸

"EU patronage transformed ILGA-Europe into 'one of the most successful and best-connected anti-discrimination NGOs in Europe'."

Despite being a very 'recent player in the European game,' having only formed in 1996 as the regional arm of the ILGA, EU patronage transformed ILGA-Europe into an organisation in its own right. It quickly established itself 'as one of the most successful and best-connected anti-discrimination NGOs in Europe'.¹⁹ Under the auspices of the European Commission and other bodies such as the Open Society Foundation, ILGA-Europe immediately began to play a role in drafting the 1999 Treaty and the accession negotiations of the Eastern enlargement. In 2001 ILGA-Europe made its first key public intervention as an EU partner with the publication of a consultative document jointly funded by the Commission and the Open Society Institute, which made the case for sexual rights being made a conditional factor in the accession negotiations.²⁰

3.2. LGBTQ NGOs as supranational entities

Since becoming a partner of the EU in 1998, ILGA-Europe has been thoroughly transformed. Today the organisation employs 14 full time staff permanently based in Brussels. In 2021 staff costs amounted to €1,762,609 – 60% of its expenditure. It now enjoys annual core funding from the European Commission in the region of €1.2 million – 29% of its

LGBTQ NGOs and EU conditionality

total income (ILGA-Europe website), and substantial financial assistance from a range of global organisations and governments such as the government of the Netherlands, the US Department of State, and George Soros's Open Society Foundation.²¹

It has become common for former ILGA-Europe staff members to take up positions within EU institutions and its other funders such as the Open Society Foundation.²² However, as ILGA-Europe has become more central to the functions of the EU, it is now also common for individuals to move the other way. Key full-time positions are now occupied by former employees of the United Nations, the European Parliament and the EU itself. For example, ILGA-Europe's former Executive Director, Evelyne Paradis, is a former member of staff with the UN High Commission for Human Rights. Katrin Hubendubel, ILGA-Europe's current Advocacy Director overall in charge of policy development in the area of strategic litigation, is a former political advisor to members of the European Parliament (Greens/European Free Alliance). Of the 14 full-time staff, over half have worked within global political and corporate institutions.²³

Anti-discrimination NGOs often claim that they are 'the heirs of older historical social movements'. ILGA-Europe, for instance claims descent from the International Gay Association (1978-1986) that developed out of the annual conference of the English Campaign for Homosexuality Equality (see ILGA-Europe 2001). But the geopolitical shifts that occurred in the 1990s and early 2000s fundamentally transformed these groups into new, supranational entities with little resemblance to their historical forebears.²⁴

The extent to which these groups are embedded within the institutions of the EU means that today's anti-discrimination organisations are very different from and 'display important ruptures with their predecessors'.²⁵ This is perhaps most explicit in the ways these groups now structure their organisation and the way in which they mobilise.

3.3. The undemocratic structures of LGBTQ advocacy

LGBTQ advocacy is now more technical and bureaucratic in its approach to issues of discrimination. In essence, they mirror the instrumentalised outlook of their global political and corporate elite sponsors.

European LGBTQ advocacy is focused on elite institutions. Lobbying and awareness raising, rather than public campaigns and mass protest, are now the preferred ways of getting the message across.²⁶ Today's anti-discrimination activist views the elite institutions of the EU, rather than publicly supported campaigns and popular protest, as drivers of social change. Given that they now 'enjoy easier access to several EU institutions (chiefly the Commission, the Court, and the Parliament) than in many nation states' this is perhaps unsurprising.²⁷

"LGBTQ advocacy groups are now embedded within the institutional structures of the EU."

Access to supranational institutions provides recognition and financial and structural coherence as well as ideological purpose.

ILGA-Europe's "elite turn" is also mirrored in the way it structures internal decision making. Since becoming a formal partner organisation of the EU, the organisation has changed the way that it makes decisions and is held to account. ILGA-Europe's elected board, whilst still constitutionally the main decision-making body, has largely been usurped by the full-time members of staff based in Brussels as the policy-making arm of the organisation. As Patternote points out:

'Although the staff is still officially subordinated to the board, it has become largely independent, and its suggestions are merely ratified by the board. Similarly, annual conferences, where the work done by staff is presented for approbation to the representatives of national organisations and where new orientations are discussed, are no longer a decision-making body'.²⁸

Within the organisation more broadly there appears to be:

'Little room for discussions about the movement activists want to build together, or for more horizontal types of exchange, between member organisations. Political priorities which seemed to be agreed by everyone, are not part of the debate and discussions deal mostly with technical issues. In the same vein, the EU network, which used to gather one representative from each European country, has recently been rescaled to include only "efficient" national

LGBTQ NGOs and EU conditionality

*activists and activists from countries with a decisive role in EU policies’.*²⁹

3.4. ILGA’s place in the NGO-industrial complex

As the EU established new criteria for engaging with the Central and Eastern Europe states, so it also empowered quasi-governmental and non-governmental organisations to facilitate the ideological conditionality imposed through the 2004 and 2013 enlargements. The new geopolitical context created by the end of the Cold war, and the subsequent ‘receptivity of the Union – particularly the Commission’ to groups such as ILGA-Europe, established ILGA-Europe as the leading LGBTQ NGO. This has provided the EU with an organisational form through which it seeks to re-legitimate itself and redefine its symbolic identity.³⁰

ILGA-Europe has played a key role in the characterisation of Central and Eastern European states as problematic “norm violators” and has been at the forefront of the EU’s undermining of the civil culture within these societies.

4. New Europe, old prejudices: the “problem of the east”

The protracted economic crisis within the Eurozone and intensifying Eurosceptic sentiment within its own Member States – particularly in the aftermath of Brexit – have problematised what it means to be European. The conflict between the EU and its Central and Eastern Member States on issues of sexual identity and rights are a notable manifestation of this apparent identity crisis.

This crisis of meaning is not a new one. It has dogged the institutions of European integration since their inception in the late 1950s. Europe has always been ‘a question of definition’.³¹ Its boundaries and sense of self have always been contingent upon what it defines itself against.

The collapse of the Soviet Union posed a major problem for EU decision-makers. Until then, the EU had relied on the authoritarian “other” of the Soviet Union to give legitimacy to EU projects. Set against the Soviet Union, the EU appeared to be the progressive historical alternative. With the Soviet collapse, the EU lost this historical “other”.

The key thing to understand is that the EU tried to solve this crisis of meaning by viewing the new post-Soviet “East” as “other”. The key tools for this have been conditionality measures and the relentless development of LGBTQ rights. The idea of “Europeanness” became centred around LGBTQ rights, and this Europeanness re-legitimated the prejudice that the countries of Central and Eastern Europe are somehow lesser Europeans.

4.1. Accession & the 2004 enlargement

Separate accession partnerships for each candidate country were established in 1998 (subsequently revised in 1999 and 2002), which laid out the “roadmap” for joining. This detailed the specific legislation required to be added to comply with the EU’s *acquis communautaire* (the accumulated body of EU law, regulations and principles, henceforth “*acquis*”). Compliance with the *acquis* were non-negotiable conditions of membership.³² This conditionality differentiates the 2004 enlargement from previous enlargements

where candidate countries negotiated membership rather than having to comply with a pre-established non-negotiable set of conditions. The core elements of this conditionality were developed through the so-called “Copenhagen Criteria” which were absorbed into the 1999 Treaty of Amsterdam, establishing a set of benchmarks by which accession negotiations would be conducted.

“A conception of the ‘East’ as ‘other’ has been central to the way in which the EU has managed its historical crisis of meaning.”

Significantly, the Treaty of Amsterdam represents the first time that issues of sexual identity become a focus within EU legislation. Prior to the Treaty, issues of sexual identity, let alone LGBTQ rights, had largely been ignored by the EU. The proximity to the fact that eight of the potential new candidates for accession in 2004 were Central and Eastern European countries cannot be ignored.

4.2. The Copenhagen criteria & the Treaty of Amsterdam

At a summit held in Copenhagen in June 1993, the European Council put in place a set of specific criteria that changed the character of future EU enlargements and its relationship with prospective candidate countries. Known collectively as the “Copenhagen Criteria”, three explicit conditions were established that had to be met by countries wishing to accede to the EU. They were:

Political Conditionality: that candidate countries have stable democratic institutions that guarantee the rule of law and human rights;

Economic Conditionality: that candidate countries have functioning market economies; and

Legal Conditionality: that candidate countries fully accept established EU laws and practices.

New Europe, old prejudices: the “problem of the east”

Although the Copenhagen Criteria did not explicitly mention LGBTQ rights, it did bring the issue of sexual identity and behaviour within the purview of future accession negotiations. Candidate countries were now required to adopt legislation that decriminalised sexual identities and brought the age of consent for same sex relationships into line with those for heterosexuals, as part of the conditionality of membership.³³

Although these criteria came into force with the signing of the 1993 Maastricht Treaty, it is only with the ratification of the Treaty of Amsterdam in May 1999 that the issue of sexual identity begins to be incorporated into the EU’s attempts to define what it means by human and fundamental rights, and as such, becomes a condition of membership. Amending the EU’s founding Treaty of Rome (1957), the Treaty of Amsterdam extended The EU’s powers to legislate on human rights and LGBTQ sexual rights through the inclusion of Article 13.

“Once a geopolitical threat, the ‘problem of the East’ is rehabilitated as a threat to what it is to be European.”

Article 13 created a new provision which stipulated that ‘Without prejudice to the other provisions of the Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination on sex, racial, or ethnic, religion or belief, disability, age of sexual orientation’.³⁴

The following year (November 2000) Directive 2000/78/EC established the General Framework for Equal Treatment in Employment & Occupation. This was followed in December by the Charter of Fundamental Rights. Both the Directive and Charter (via Article 2 (1)) draw attention to the issue of sexual orientation as a protected characteristic in relation to discriminatory practices within the workplace. Directive 2000/78/EC has added importance as this created EU *acquis* incorporated into the legal systems of EU Member States on LGBTQ rights. For the first time EU candidate countries would be required to adopt LGBTQ discrimination employment legislation.

4.3. The “problem of the east”

The Treaty of Amsterdam was a significant moment in the EU’s centring of sexual rights at the end of the 1990s. The proximity to the end of the Cold War is significant as it underpinned the EU’s attempt to redefine itself. In that respect the treaty was also a response to this major global geopolitical disruption.

Although not directly binding on the accession negotiations, Article 13 of the treaty does establish the symbolic relationship between the promotion of LGBTQ rights and “Europeanness” stating that LGBTQ discrimination ‘is not in accordance with European values.’³⁵

The EU’s incorporation of LGBTQ equality as a core value is key to EU’s latest attempt to cohere a unifying political identity. In this sense the Amsterdam Treaty embodies both ‘a continuation of a longer tradition of defining the EU’s symbolic boundaries as well as a transformation of this tradition’.³⁶ It begins to codify sexual identity and rights as a definition of the EU’s “fundamental rights” or core values, whilst at the same time it establishes the framework through which the EU re-legitimises a sense of Eastern Europe as the “problem other”.

In the aftermath of the Second World War, the institutions of European integration styled themselves as a bulwark against the threat of the Soviet Union. During the Cold War era Western Europe’s political elites cohered a sense of unity around the threat posed by the “East”. With the gradual thawing of the Cold War and eventual dissolution of the Soviet Union at the beginning of the 1990s, Eastern Europe – as shorthand for the Soviet threat – lost its salience as the necessary “other” against which the institutions of European integration defined themselves.

As the European Union began trying to bring the former Soviet republics and satellite states within its sphere of influence, so it began to refashion the East as its symbolic other. Rather than re-unifying East with West, the conditionality imposed through the 2004 enlargement had the effect of polarising perceived differences. Once a geopolitical threat, the “problem of the East” was recast as an ideological problem – a threat to so-called values and fundamental rights of what it is to be European. Cast as the wrong types of societies, the states of Central and Eastern

New Europe, old prejudices: the “problem of the east”

Europe would have to be taught how to be proper Europeans. This is what gives the 2004 enlargement process its distinct conditional and punitive character. Reflecting on the process, the British historian Perry Anderson saw the 2004 enlargement as something of a civilising process:

*‘The reality is that from the time of the Roman Empire onwards, the lands now covered by the new Member States of the Union were nearly always poorer, less literate and less urbanised than most of their counterparts in the West’.*³⁷

One cannot help but conclude that the 2004 enlargement was a deliberate attempt to discipline, if not directly humiliate the former Soviet states. As one observer noted at the time ‘the EU has simply imposed on them the *acquis communautaire*, without giving them any say or taking into account their special circumstances’ as they attempted to transition from single party controlled Soviet economies into Western “liberal” market economies.³⁸

“One cannot help but conclude that the 2004 enlargement was a deliberate attempt to discipline, if not directly humiliate, the former Soviet states.”

4.4. Muscular conditionality

The “muscular conditionality” imposed by EU enlargement policy was designed to “other” rather than liberalise the Eastern candidate members.³⁹ The rhetorical cloak of “Europeanisation” provided a framework through which the issue of sexual rights could be weaponised not only to re-demonise the Member States of Central and Eastern Europe, but also to provide the EU with new purpose and meaning in the post-Cold War era.

As the Treaty of Amsterdam redefined the EU’s fundamental rights as sexual rights, so it reinvigorated its own sense of purpose. By extending the legislative reach of the EU, the treaty provided the remit through which it could now intervene directly in the “home affairs” of its existing and potential Member States. The EU that emerges at the beginning of the twenty first century is of a very different character, much more supranational in the way it models itself and emboldened

by a new sense of mission. The Treaty of Amsterdam is a key turning point not only in the EU’s legislative mainstreaming of sexual rights, but also for providing the footing upon which it begins to foster and then weaponise LGBTQ advocacy as the prime measure of a new European ideal.

5. The weaponisation of LGBTQ rights: the policy framework

By the early 2000s the European Union had begun to redefine its fundamental values through the issue of sexual identity and LGBTQ equality. These issues have become central to the EU's conception of self and the way it judges the "Europeanness" of other countries. Furthermore, these developments have fed into a process whereby the EU develops a much more supranational and interventionist approach to policy⁴⁰. The codification of cultural value change, particularly around sexual identity, is a key aspect of this important shift. However, the explicit nature of this shift, and in particular the emphasis of LGBTQ rights as a principal condition of EU membership, did not properly come into play until negotiations began on the next EU expansion, the 2013 Balkan Enlargement process.⁴¹

The EU's development of policy on LGBTQ equality post-2004 has also sought to rectify the perceived weaknesses of the Eastern enlargement. The EU, as a supranational institution, failed to successfully reconcile itself with the European nation state. This represented a failure to develop a coherent stable European identity, and ultimately led to the deepening of its investment in LGBTQ ideology. LGBTQ rights were to supplement the fragile basis of the EU's authority.

5.1. Kosovo and the limits of conditionality

1998 saw the resumption of armed conflict between the then Federal Republic of Yugoslavia (Serbia and Montenegro) and ethnic Albanians in Kosovo. Although hostilities ceased in June 1999, the war gave rise to an increased fear that Europe was on the verge of another protracted period of instability. The 2004 enlargement process became the means through which to address the problem of political stability in the region. For the time being at least, a geopolitical concern for European security displaced ideological change as the *raison d'être* for EU expansion. The very real political problem of national sovereignty temporarily trumped the EU's desire for normative "Europeanisation". This illustrates the real ideological fragility

upon which the EU attempted to re-symbolise its sense of purpose during this period.

However, the EU soon set about rectifying its somewhat compromised position. The apparent failure to fully "absorb" the new Member States through the conditionality mechanisms in the Treaty of Amsterdam only intensified the EU's emphasis upon conditionality for the future. It also led to conditionality becoming increasingly predicated upon the issue of LGBTQ rights. These developments were given primacy in a series of publications and policy decisions spanning the period following the Eastern enlargement and began to take effect with the Balkan enlargement in 2013.

"The EU's failure to reconcile itself with the nation-state and create a stable 'European' identity led to its deepening fascination with LGBTQ issues."

The key developments were:

- A new regulatory framework published in 2005.
- The signing of the Lisbon Treaty in 2009, which made the EU's Charter on Fundamental Rights a legally-binding component of EU *acquis*.
- The EU's adoption of an LGBTQ Toolkit in 2010, which reflected the increased centring of LGBTQ rights not only in its external relations but also in its own internal organisation.

We will now examine each of these developments in turn.

5.2. New regulatory framework

Published in 2005, the European Commission's new regulatory framework made significant amendments to the rules governing accession

The weaponisation of LGBTQ rights: the policy framework

negotiations. Two new chapters were introduced - Chapters 23 & 24.⁴²

The introduction of Chapter 23 (on “Judiciary and Fundamental Rights”), amended existing enlargement policy by creating specific provisions that enabled the EU to focus directly upon areas and issues it felt were critical to membership.⁴³ Chapter 23 effectively formalised the EU’s “fundamental rights” as an explicit condition upon which negotiations would then proceed. Prior to 2005, the issues of “fundamental rights” had largely been viewed as a “precondition” of membership, and not part of the actual remit for negotiations of membership. The introduction of Chapter 23 in 2005 effectively meant that, as an integral element of the negotiations process itself, the EU could now use the question of “fundamental rights” to directly intervene and shape the domestic legal and legislative structures of the accession states. Indeed, during this period ‘Progress in the areas of judiciary and fundamental rights became the keystone of the advancement of the accession process in general’.⁴⁴

“The demands of the 2013 enlargement well exceeded any previous attempts to enforce ‘progressive’ values on existing Member States.”

However, these provisions remained largely general principles rather than hard and fast aspects of EU *acquis*. That was until 2006, when the European Commission published its Enlargement Strategy Paper (ESP), which laid out a benchmarking system that candidate countries would have to meet prior to both the opening of negotiations and their subsequent conclusion.⁴⁵ The ESP states:

*‘Opening benchmarks concern key preparatory steps for future alignment (such as strategies or action plans), and the fulfilment of contractual obligations that mirror acquis requirements. Closing benchmarks primarily concern legislative measures, administrative or judicial bodies, and a track record of implementation of the acquis.’*⁴⁶

Further amendments were again made to Chapter 23 following the opening of accession negotiations with Croatia in 2011, which

enabled the monitoring of candidate countries “absorption” of EU fundamental rights *acquis*.⁴⁷ Moreover, the amendment made it clear that this was an explicit condition that candidate countries would have to meet immediately once accession negotiations had begun.⁴⁸

By 2013 the issue of LGBTQ rights had been fully incorporated into Chapter 23 of the Enlargement Strategy. With the publication of the ‘Enlargement Strategy and main Challenges 2013-2014’, the EU explicitly targeted the Balkans and Turkey as problem countries with regards to LGBTQ discrimination and hate crime. The strategy stipulates that candidate countries must provide ‘training of law enforcement, ombudsman institutions, judges and media professionals... to raise awareness of new legislation’ in these areas.⁴⁹

As part of this new strategy, the EU clearly demonstrated that prevailing institutional or cultural values or commonly-held viewpoints would not be tolerated as reasons to resist the enforcement of the EU rule of law on fundamental rights. From the outset, the document states that ‘Religious or cultural values cannot be invoked to justify any form of discrimination’. It continues, ‘Countries need to take measures to *counter stereotypes and misinformation*, including in the education system’ [original emphasis], and that ‘freedom of assembly and expression should be protected’ particularly in relation to the organisation and policing of Pride Parades.⁵⁰

The demands laid out in the 2013 enlargement document, with regard to the implicit zero-tolerance of so called “homophobic education” and the “policing” of Pride Parades – which by implication quickly become a new ‘litmus test of readiness of EU membership’ – extended the Commission’s influence and expectations regarding ideological change in candidate countries well beyond that of the EU *acquis* governing existing Member States.⁵¹

5.3. Lisbon Treaty

Although it had little direct impact on the accession and enlargement process – as it only applied directly to existing EU Member States – the signing of the Lisbon Treaty in 2007 did have important symbolic significance. Provision 8 of the treaty amends Article 6 of the Treaty of the EU in that the Charter of Fundamental Rights is

The weaponisation of LGBTQ rights: the policy framework

now afforded the same status as the initial founding treaties. Provision 8 is significant in that it creates a legal obligation on the part of the EU to uphold and enforce the values it was increasingly demanding from candidate countries within existing Member States.⁵²

In part a corrective to accusations that accession countries were being held to higher standards than existing members, Provision 8 intensified the ways in which fundamental rights – increasingly defined as LGBTQ rights – became a key factor in shaping how the EU manages its relations both internally and externally.

5.4. The LGBTQ tool kit

In October 2010 the European Council published the document *Promoting the Enjoyment of all Human Rights of Lesbian, Gay, Bisexual and Transgender People*. This was effectively a toolkit that aimed to mainstream LGBTQ rights within European institutions' relationships with "third countries" – those countries that were not a member of the European Union, or those not part of European Union free movement agreements. As stated, the toolkit:

'aims to provide staff in the EU Headquarters, EU Member States' capitals, EU Delegations, Representations and Embassies with an operational set of tools to be used in contacts with third countries, as well as with international and civil society organisations, in order to promote and protect the human rights enjoyed by LGBTQ people within its external action...Toolkit will further contribute to reinforcing and supporting the EU's human rights policy in general'.⁵³

The toolkit represents a set of guidelines issued to EU diplomats that demarcate the protection of LGBTQ rights as a specific area of diplomatic activity. In 2013 the toolkit was expanded into a set of binding themes with the publication of *Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex Persons*.⁵⁴ The amendments' explicit purpose was:

'to provide officials of EU institutions and EU Member States with guidance to be used in contacts with third countries and with international and civil society organisations ... in order to promote and protect the

human rights of LGBTI persons within its external action'.⁵⁵

The toolkit represents a key moment when the EU begins privileging transgenderism within issues of sexual identity and rights. In 2009 the then Council of Europe Commissioner for Human Rights, Thomass Hammarberg, published an issue paper on gender identity. The paper is important as it identifies transgender individuals as a '... particularly vulnerable group within LGBTQ people'.⁵⁶

"Since 2010, gender equality has largely been viewed through the prism of transgender ideology. Transgender ideology now has a privileged position in EU institutions"

Although the paper was not legally binding, it is widely recognised as a key moment in mainstreaming trans rights within the EU's interpretation of gender issues. Indeed in 2008 at a 'transgender expert meeting' in Strasbourg, Hammarberg announced that, in matters of LGBTQ rights, as far as Europe was concerned it was now 'time for the "T"'.⁵⁷ Since 2010 the issue of gender equality has largely been viewed through the prism of transgender ideology. Successive commissioners have followed the lead established by Hammarberg who stepped down in 2012. Both Nils Muisnieks (2012-2018) and Dujan Miatovic (2018-present) have overseen the expansion of transgender ideology within European institutions and given it a privileged position within LGBTQ policy.

Education policy has become a key area for advancing transgender human rights through teaching methods and curriculum development. In 2020 the Council of Europe (not an EU institution but playing nonetheless a key role in European policymaking) issued a statement within which it emphasised that members were required to deliver 'such education...that goes beyond biology and reproduction and truly equips children with knowledge about their bodies and their rights, and informs them about gender equality, sexual orientation and gender identity'.⁵⁸

The next chapter will examine this tendency in more detail.

The weaponisation of LGBTQ rights: the policy framework

5.5. Hostility to national sovereignty

The impact of the Kosovan conflict upon the 2004 enlargement process exemplifies the problem that sits at the heart of the EU and fuels its crisis of identity - that it is always hostage to the question of national sovereignty.

The establishment of a New Regulatory Framework attempted to correct the perceived weaknesses of the 2004 Eastern enlargement which, although it symbolically included the issues of rights of sexual identity and behaviour, failed to fully enforce them as conditional elements of EU *acquis*.⁵⁹ However, the explicit relationship between LGBTQ rights, fundamental rights and EU *acquis* begins to emerge through the Balkan enlargement process in 2013. This has become both a symbolic and legislative default in the way that the EU frames its relationships with those Member States who joined as a result of the 2004 Eastern enlargement, despite them not being part of the conditionality of membership.

The 2004 enlargement illustrates the tension implicit in the EU project; that it is rhetorically inclusive and unifying, but is nevertheless reliant upon a process whereby aspects of European culture are continually excluded and characterised as necessarily non-European. European Parliament resolutions denouncing homophobia, passed soon after the Eastern enlargement, reinforced this distinction. Whilst denouncing homophobia in Europe as a whole, these resolutions singled out the Central and Eastern European Member States as the EU's 'internal homophobic Other'.⁶⁰

6. LGBTQ advocacy and the “norm violators”

Despite the rhetorical premise of democratisation, the experience of the 2004 enlargement exposed the EU’s increasing hostility to nationally-constituted forms of democratic accountability.⁶¹

“Europe’s LGBT NGOs have become the primary vehicle through which global elites problematise the necessarily national foundation of democratic sovereignty.”

The increasingly supranationalist “European” orientation of LGBTQ advocacy groups such as ILGA-Europe increases their disconnect from the cultures and societies they seek to influence. As a result of elite patronage and the ease of access this provides to EU institutions, LGBTQ advocacy has become increasingly divorced from the nationally-constituted cultures within which they attempt to operate.⁶² No longer national in outlook or indeed democratically informed, Europe’s LGBTQ NGOs have become the primary vehicle through which global elites problematise the necessarily national foundation of democratic sovereignty.

6.1. The nation state as “anti-gender”

The EU narrative depicts legitimate concerns about national democracy as an expression of gender discrimination and homophobia.

The failure of the 2004 Enlargement to ‘liberalise attitudes towards sexual minorities in Central and Eastern Europe’ is put down to the persistent hold that ideas of national identity and the shared experience of ‘culture and history’ have in these countries⁶³. These cultures are presented as insular and discriminatory, where values are grounded in outmoded ways of life. For example, the Eastern European family is readily demonised as a source of exclusionary and intolerant national sentiment. It is suggested that opposition to LGBTQ rights is in large part ‘maintained by means of the patriarchal family, underpinned by heteronormative and patriarchal concepts of masculinity and femininity’.⁶⁴

In contrast, the EU offers a ‘unique space for “overcoming” nationality...’ precisely because it provides an ‘arena for challenging sexual identities and inequalities’ embedded in the ideas of national citizenship that still prevail in Central and Eastern Europe’.⁶⁵ The EU, it is argued, ‘offers value models for anti-discrimination developments beyond the “population” narrative of – largely patriarchal and heteronormative – national citizenship’.⁶⁶

6.2. Eastern societies as “norm violators”

LGBTQ advocacy serves as the means by which the EU attempts to impose a ‘cultural environment...in which norm promoters can more effectively ignite a process of deliberate reflection’ and ‘shame norm-violators into conformance’.⁶⁷

As a consequence, the Eastern and Balkan enlargements have been characterised as a form of “leveraged pedagogy” whereby Western European elites treat candidate countries as not being European enough to merit entry to the EU, but just European enough ‘to be offered redemption and help in their attempts to Europeanise’.⁶⁸ It has been noted that, during the 2004 enlargement, existing Member States were generally cast as the ‘knowledgeable teachers of democracy, liberalism, and tolerance’.⁶⁹

6.3. The transgender curriculum

Education policy, particularly in relation to children and the school curricula, has become a focused area where Europe’s supranationalist institutions pursue the issue of gender identity.⁷⁰ However, this has not been without its problems, and such measures have faced notable opposition from parents and citizens opposed to the incorporation of transgenderism within school curricula.

The Council of Europe has drawn particular attention to the problem of parental opposition to these measures. In Member States such as Poland, Romania and the UK, parents’ groups have pressed local authorities and national governments to resist the overt sexualisation of children’s education. Indeed, in Scotland, where this issue has become increasingly embedded in the school

LGBTQ advocacy and the “norm violators”

curriculum, the government recently issued guidance that schools are under no obligation to inform parents if a pupil were to change their gender identity.⁷¹

6.4. The expansion of Article 2

There is little doubt that the overall intention is to undermine the role of parents and the influence of the family on the socialisation of school age children. It is in this wider context that the Hungarian government’s law prohibiting the distribution and availability of LGBTQ material to school children should be understood.

“Unfortunately for ILGA-Europe and the EU, ‘the tricky issue’ of proof seems to suggest that Hungary’s laws are actually consistent with Article 2 of the EU Treaty.”

Whilst ILGA-Europe is adamant that the Hungarian legislation ‘clearly violates the human rights of LGBTI people,’ particularly in terms of freedom of expression and education, they are less sure that Hungary has actually infringed EU rule of law, and in particular Article 2.⁷² As ILGA-Europe acknowledges, ‘the tricky issue with EU infringement is that you need to prove exactly how a law introduced by a Member State actually goes against EU legislation’.⁷³ Unfortunately for ILGA-Europe and the EU, ‘the tricky issue’ of proof seems to suggest that Hungary’s laws are actually consistent with Article 2 of the EU Treaty, being as it is derived directly from Article 10 of the European Convention of Human Rights.

Article 10 of the European Convention reads:

‘Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority...’.

However, the Article continues that these rights:

‘May be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of

*national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others...’.*⁷⁴

The rights outlined in Article 10 are in fact heavily qualified in that it ‘anticipates a very wide set of circumstances in which freedom of speech can be lawfully interfered with under the convention’.⁷⁵ The issue that seems to stick in ILGA-Europe’s craw is that the Hungarian legislation has sought, in accordance with the Article 10, to interpret the imposition of EU rule of law on sexual identity and gender identification in schools as a moral concern, and that the laws are designed to protect the health and wellbeing of Hungary’s young people.

The references within Article 10 to “democratic society” and the notion of “territorial integrity”, as conditional restrictions on the right to freedom of expression, are significant, particularly in reference to the accusation that Hungary has violated Article 2 of the Treaty of Europe. Whilst they may not be liberal, Hungary’s laws are democratic and are very much about defending the territorial integrity of its political institutions – as legitimately qualified in the Article.

There appears to be a stark contradiction or double standard in that some Member States, or communities, are seen as entitled to defend their “territorial integrity” and moral wellbeing, whilst others aren’t. This is reflected in the tellingly ambiguous response by critics of the Hungarian legislation who, without irony, don’t advance the same “freedom of expression” to the diverse voices with which they disagree.

6.5. Shared culture vs LGBTQ

Despite acceding to full EU membership in 2004, countries such as Hungary and Poland are still considered permanent accession states and permanently not “European”.⁷⁶ EU-sponsored LGBTQ advocacy promotes the prejudice that national communities bonded by shared cultures, values and traditions are inherently bigoted and exclusionary. That is why the LGBTQ lobbyists find ready allies within the rarefied environments of global political and corporate power.

The increased tendency to privilege transgenderism within approaches to LGBTQ equality has not only become a point of division. It also illustrates how

LGBTQ advocacy and the “norm violators”

the “re-education” of Eastern Europe has become the basis on which Europe’s core Western states become subject to similar anti-democratic tendencies, through the institutionalisation of transgender ideology within national education systems.

7. LGBTQ NGOs: disempowering the public

The Treaty of Amsterdam allowed the EU to manipulate enlargement into an institutionalised, top-down form of enforced socialisation and ideological change. Rather than enabling the liberalisation of Eastern societies, accession has been weaponised as a means to reinforce the difference between “European” values and the problematic East. This tendency informs the contemporary characterisation of the Central and Eastern Member States as LGBTQ “norm violators”. The apparatus of enlargement also disenfranchised national electorates, as it excluded them from the decision-making process. EU sponsored advocacy in the area of sexual rights has also disempowered ordinary citizens.

The Treaty of Amsterdam made provision for the funding of “civil society actors” through which EU normative conditionality could be enforced. These actors were empowered through pre-accession funding regimes such as the Instrument for Pre-Accession (IPA) and the European Institute for Democracy & Human Rights (EIDHR).⁷⁷

7.1. Transnational actors and bypassing the public

Observers have suggested that the accession process had very little impact upon public attitudes.⁷⁸ This is not surprising, as there was little if any real provision for active civil society involvement in the enlargement processes⁷⁹, which were pursued in a very ‘technocratic top down’ way, and ‘put into place without any real chance of implementation’.⁸⁰

EU enlargement became dependent upon forms of transnational activism that consciously disengaged from traditional structures of civil and political accountability within the candidate countries.⁸¹ It is then perhaps not surprising that ‘internal resistance to aspects of the EU’s human rights identity emerged relatively quickly after accession’, given that for the greater part citizens had been excluded from decisions that would fundamentally shape their future lives.⁸²

This has had significant ramifications in Europe more broadly. In 2019 IGLYO, a Brussels-based and EU-funded international LGBTQI youth and student advocacy NGO,

along with the global law firm Dentons and the Thompson Reuters Foundation, published ‘Only Adults? Good Practices in Legal Gender Recognition for Youth’.⁸³

“LGBT NGOs have shifted their emphasis from public-based campaigning towards more elite political lobbying.”

The document establishes good practice for LGBTQ advocacy and activism – particularly in the area of legal gender recognition. Amongst the list of things deemed “good practice” are two telling campaign strategies that reveal the extent to which these groups, whilst they may appear mainstream – certainly in the way they are funded – are in fact hostile to any form of popular based support. Suggested strategies effectively eschew engagement with the wider public. For example, the document advocates that activists ‘tie [their] campaign to more popular reform’, and ‘avoid excessive press coverage and exposure’.⁸⁴

Using Ireland as an exemplar, the report notes that advocating for changes to the law on legal gender recognition, ‘at the same time as other more popular reform’ such as the same sex marriage equality Referendum in 2015, provided a “veil of protection” for trans activists, particularly when ‘marriage equality was strongly supported, but gender identity remained a more difficult issue to win public support for’.⁸⁵

LGBTQ NGOs have shifted their emphasis from public-based campaigning towards more elite political lobbying. This is underpinned by the overt sense that the public are an actual enemy not an ally. Indeed ‘Only Adults’ actively negates the notion of attempting to gain widespread popular support as a means to effective change, because ‘public campaigning has been detrimental to progress’. Instead, campaigns not only surreptitiously piggyback on other campaigns, but also ‘Avoid excessive press coverage and exposure’.⁸⁶ As the document notes on gender recognition, ‘In Ireland, activists have directly lobbied individual politicians and tried to keep press coverage to a minimum in order to avoid this issue’. In other words, just don’t tell the public what you are doing, hide

LGBTQ NGOs: disempowering the public

behind other campaigns and generally subvert the processes of democratic accountability. However, this smoke and mirrors approach obviously works. Following the 2015 referendum Ireland became the first country in the world to legalise same sex marriage by popular vote. Later that year gender identity self-declaration was also made legal – but there was no vote, popular or otherwise on the issue, and little if any public debate.

This tendency has also been reflected in the way that Pride Parades have been appropriated as markers of “Europeanness” within the Balkan accession states. For example, in Serbia, Pride Parades are not seen by activists and organisers as a means to engage the wider Serbian public but have become mechanisms for networking with international political elites. Since 2014 foreign diplomats and politicians have been regular “attendees” at Pride Parades, particularly in Split and Belgrade.⁸⁷ These have included the ‘ambassadors from the United States, Britain, Germany, the Netherlands, Norway and the EU, along with elected representatives from the European Parliament’.⁸⁸

7.2. LGBTQ “civil actors” as “uncivil disrupters”

Rhetorically, accession instruments such as the IPA were supposed to assist the EU in building relationships within the existing civil structures of the candidate civil society. However, in reality these mechanisms became much more about creating new civil institutions, rather than working with existing ones.⁸⁹ Material incentives became directly tied to creating projects carried out by “local agents”. These projects had the express intent of socialising EU norms, as material assistance became much more linked to cultural value change.⁹⁰ Through financial endorsement and training, the EU created a layer of rights-based advocacy in social policy areas it considered were not being ‘properly implemented by the state’.⁹¹ These EU-funded activists in turn became the EU’s reliable mouthpieces when it perceived that the state or local people were resistant to ideological change.⁹²

In November 2000 the Hungarian lesbian advocacy group Labrisz Lesbian Association (LLA) launched a project that aimed to build links between LGBTQ individuals and local schools. The ‘Getting to Know LGBTQ People’ project aimed to ‘raise awareness

about LGBTQ issues among young people, their teachers and educators’, and ‘develop positive attitudes, stressing the importance of collective responsibility for the exclusion LGBTQ people can be subject to’.⁹³

The project is important in that it sheds light on the way in which the accession process facilitated the developments discussed above.

“LGBTQ playbooks tell advocates: ‘don’t tell the public what you are doing, hide behind other campaigns and generally subvert the processes of democratic accountability’.”

The LLA project was funded by the EU’s PHARE programme. PHARE – Poland & Hungary Assistance for the Restructuring of the Economy – was a pre-accession instrument specifically designed to support infrastructural investment in Poland and Hungary as they prepared for membership. Moreover, it is telling that the LLA only came into existence in 1999. That a sexual rights organisation, with little infrastructure or organisational links with wider Hungarian civil society, should receive funding from the EU via a programme designed to assist economic development clearly signals the intent to disrupt and disenfranchise the existing civil norms of those candidate societies. This was made more apparent when ILGA-Europe described the project as a significant step, particularly as parents would likely ‘oppose the invitation of gay people into schools’.⁹⁴

Initially the Hungarian authorities attempted to limit the ways in which the LLA funding was used by insisting that the project should only involve children aged 14 years and above. However, in 2007 the project was extended to universities, in particular teacher training colleges, social work and psychology departments. Between 2013-2015 the project received additional funding from the Norwegian Civic Fund, and during the 2016/17 academic year, via funding from the Open Society Foundation, it was extended to include the training of volunteers from LGBTQ organisations based in rural areas.⁹⁵

LGBTQ NGOs: disempowering the public

7.3. EU enlargement and the LGBTQ agenda

Hungary applied for EU membership in 1994. Although accession negotiations did not officially begin until March 1998, the years between application and formal negotiations show how EU enlargement politicised aspects of Hungarian life that had hitherto not been considered political or indeed public matters.

In March 1995 the Hungarian government legalised same sex partnerships. Significantly this was not the result of LGBTQ advocacy or lobbying. According to ILGA-Europe, there was “no lobbying” around LGBTQ rights in Hungary prior to this decision.⁹⁶

“Increased pressure will be applied in order to make Ukrainian political institutions conform to the EU LGBT orthodoxy - despite its ongoing war to repel the Russia military invasion.”

Indeed, questions of sexual identity and behaviour were largely considered private issues by the Hungarian public. This view was also shared by LGBTQ groups themselves. Groups such as Homeros Lambada and the Hatter Society for Gays and Lesbians in Hungary were largely concerned with providing help and advice, particularly with regard to HIV and health. However, via the financial enticements and organisational recognition provided by EU accession, these groups began to take a much more overtly “politicised” stance on sexual identity with the explicit aim of undermining Hungary’s “underdeveloped” civil institutions, which continued to propagate ‘false arguments that sexuality belongs in the private sphere’.⁹⁷

Since 2019 there has been an increasing focus upon Ukraine and its failure to promote and adopt pro-LGBTQ legislation. In 2015 Ukraine announced a National Human Rights strategy which included a 5-year action plan to promote LGBTQ equality. However, according to ILGA-Europe and its corporate sponsors, there has been little if any progress on this issue since the election of President Volodymyr Zelenskyy and The Servant of The People Party in 2019.⁹⁸ Given that George Soros has announced that his Open Society

Foundation, a key funder of LGBTQ advocacy in Europe, plans to wind down its activities within the EU to concentrate upon countries such as Ukraine, it seems likely that increased pressure will be applied in order to make Ukrainian political institutions conform to the EU LGBTQ orthodoxy - despite its ongoing war to repel the Russia military invasion. Indeed, in a 2020 report on Ukraine, the EU outlined its clear intent to increase pressure on the Ukrainian government in the area of anti-discrimination legislation and gender identity.⁹⁹

7.4. The politicisation of sexual identity

Through its sponsorship of the politicisation of sexual identity, the EU has deliberately sought to disrupt and polarise the political and civil cultures of the countries of Central and Eastern Europe. The top-down and divisive character of this strategy undermines the decision-making capacity of national institutions, thereby disenfranchising national electorates. By polarising the sexual behaviour and private lives of ordinary citizens, the EU undermines the common cultural bonds required to affect meaningful social change.

The EU’s institutional imposition of “local actors” - themselves increasingly dependent upon EU patronage - has created a situation where those charged with affecting social change have become estranged from the common bonds and values that inform national cultures. As such they act as distant, democratically-ambiguous transnational institutions.

8. Conclusion: a return to the nation state

The EU's attempt to use the accession of Central and Eastern European states to 'expedite the socialising' of its norms has been a polarising rather than a unifying process.¹⁰⁰ Informed more by its own crisis of meaning, the 2004 enlargement served as a vehicle through which to recast the states of Eastern Europe as "problem countries" – intolerant, bigoted and ultimately "un-European". Furthermore, this process has established a policy template through which the EU and other supranational institutions such as the Council of Europe can discipline and undermine the democratic sovereignty of its Member States.

The proximity of the geopolitical destabilisation caused by the end of the Cold War, and the EU's increasing valorisation of sexual rights as the measure of "Europeanness" created a perfect storm, the effects of which still rage today.

The 2004 accession of the Central and Eastern European states replaced democratic accountability with a non-negotiable framework of rights and entitlements that still serves to intensify hostility rather than create the conditions for further liberalisation. By robbing national citizens of their ability to invest, deliberate upon and take responsibility for the social and cultural development of their own societies, the EU's conscious attempt to deactivate the civil societies of the accession countries undermines the very precondition for meaningful social change – an actively-engaged population. The EU's "socialisation by design", although predicated upon a narrative of rights and entitlements, consciously seeks to bypass the link between national populations and political accountability.

Redefining its fundamental rights as LGBTQ rights, and the substantial patronage it offers to advocacy groups such as ILGA-Europe, provides the EU with the means to prosecute the prejudice that national communities with shared values and traditions are inherently bigoted and incapable of self-determined change. Clearly the intention was not to influence the values and opinions of a national community from within, but rather to dictate, humiliate and shame those communities from above.

9. Recommendations

- 1. Re-establish a sense of European unity through mutual respect for the plurality and cultural diversity of the EU's constitutive Member States.** The EU's investment in sexual rights as the litmus test of modern "Europeanness" is inappropriate and has proved to be a destabilising factor, not only in terms of external relations but also in relations with its own members.
- 2. Encourage open, accountable opportunities for public dialogue on issues relating to sexual identity and rights.** The top-down and instrumental character of ideological change disinvests citizens of their right to participate in and shape their societies. It negates the potential for building common purpose between advocates of LGBTQ rights and the wider public.
- 3. Dialogue and debate at national and European level should be conducted in good faith.** Characterising as "norm violators" those who question the promotion of sexual rights and issues, particularly in relation to children, is divisive and unhelpful.
- 4. Re-centre and respect the independence and democratic sovereignty of national institutions** as agents of change on matters of sexual identity and rights, particularly in the area of children and education.
- 5. Re-evaluate the partisan and punitive character of EU conditionality on matters of sexual identity,** value normalisation and ideological change. EU conditionality has created unnecessary divisions between national LGBTQ communities and wider society.

About the author

Dr. Carlton Brick

Lecturer in Sociology, University of the West of Scotland

Carlton is an academic, writer and social commentator. He has taught and published widely on popular culture, celebrity, music, style and drug culture. His latest book, *Contesting County Lines: Case Studies in Drug Crime & Deviant Entrepreneurship*, was published by Policy Press earlier this year.

Follow Carlton on X/Twitter: @CarltonBrick



Endnotes

- 1 ILGA-Europe, The Infringement Against Hungary Behind the Scenes. Press Release, (24 March 2023) <https://www.ilga-europe.org/blog/infringement-hungary-behind-scenes/>
- 2 ILGA-Europe, Europe's Leading LGBTI Rights Organisation Call on EU to Act. Press Release, (16 June, 2021) <https://www.ilga-europe.org/press-release/europes-leading-lgbti-rights-organisation-calls-on-eu-to-act-as-hungarian-parliament-adopts-legislation-censoring-communication-about-lgbti-people/>
- 3 Andrea Pető, Three readings of one law: Reregulating sexuality in Hungary. LSE EUROPP, (6 July 2021) <https://blogs.lse.ac.uk/europpblog/2021/07/06/three-readings-of-one-law-reregulating-sexuality-in-hungary/>
- 4 Martijn Mos, 'Routing or Rerouting Europe? The Civilisational Mission of Anti-Gender Politics', Eastern Europe. Problems of Post-Communism, Volume 70, no. 2, (2023): 143-152 <https://doi.org/10.1080/10758216.2022.2050927>
- 5 Paul Johnson, 'LGBT People, the Council of Europe and the European Court of Human Rights', (September 2022): 12 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2927098
- 6 Sinem Bal, 'Clash of norms: The limits of EUs normative power in gender equality, in Marmara Journal of European Studies, Volume 27, no. 1, (2019): 123-143 https://avrupa.marmara.edu.tr/dosya/avrupa/mjes%20arsiv/Vol%2027_1/6_Bal.pdf; Jessica Bain & Annick Masselot, 'Gender Equality Law & Identity Building for Europe', Canterbury Law Review, Volume 18, (2012): 97-117 <http://www.austlii.edu.au/nz/journals/CanterLawRw/2012/7.pdf>; Koen Sloopmaeckers, 'Constructing European Union Identity through LGBT Equality Promotion: Crisis and Shifting Othering Processes in the European Union Enlargement', Political Studies Review, Volume 18, no. 3, (2019) <https://openaccess.city.ac.uk/id/eprint/22709/>; Koen Sloopmaeckers, Heleen Touquet, Peter Vermeersch (eds.), The EU Enlargement and Gay Politics: The Impact of Eastern Enlargement on Rights, Activism and Prejudice (London: Palgrave Macmillan, 2016); George Vasilev, 'LGBT recognition in EU accession states. How identification with Europe enhances the transformative power of discourse', Review of International Studies, Vol 24, no. 4, (October 2016): 748-772 <https://www.cambridge.org/core/journals/review-of-international-studies/article/abs/lgbt-recognition-in-eu-accession-states-how-identification-with-europe-enhances-the-transformative-power-of-discourse/23CB9BBE3462C963ABCF34BAD3A2A928>
- 7 Koen Sloopmaeckers, Heleen Touquet, Peter Vermeersch (eds.) *ibid* (2016): 1
- 8 Sinem Bal, *ibid* (2019): 125
- 9 Martijn Mos *ibid* (2023): 143
- 10 Jessica Bain & Annick Masselot *ibid* (2012)
- 11 Sinem Bal *ibid* (2019)
- 12 <https://www.ilga-europe.org/about-us/who-we-are/>
- 13 <https://www.ilga-europe.org/about-us/how-we-are-funded/>
- 14 <https://open-for-business.org/cee-economic-case>
- 15 Martijn Mos *ibid* (2023):144
- 16 Koen Sloopmaeckers *ibid* (2019)
- 17 Chris Bickerton, *The European Union: A Citizen's Guide* (London: Pelican, 2016)
- 18 David Paternotte, 'The NGOization of LGBT activism: ILGA-Europe and the Treaty of Amsterdam', *Social Movements Studies*, Volume 15, no. 4 (2016): 389 <https://doi.org/10.1080/14742837.2015.1077111>
- 19 Paternotte, *ibid*: 389; see also Kollman and Waites, *The global politics of lesbian, gay, bisexual and transgender human rights: an introduction*, in *Contemporary Politics*, Vol. 15, No. 1 (2009), <https://doi.org/10.1080/13569770802674188>; A 2009; Ayoub and Paternotte, *LGBT Activism and the Making of Europe: A Rainbow Europe?* (Palgrave, 2014)
- 20 ILGA-Europe, *Equality for Lesbian and Gay Men: A Relevant Issue in the EU Accession Process*, (Brussels, 2001)
- 21 David Paternotte *ibid* (2016); <https://www.ilga-europe.org/about-us/how-we-are-funded/>
- 22 David Paternotte *ibid*
- 23 <https://www.ilga-europe.org/about-us/who-we-are/>
- 24 David Paternotte *ibid* (2016): 388; ILGA-Europe *ibid* (2001)
- 25 David Paternotte *ibid* (2016): 388-389
- 26 Gary Marks and Doug McAdam, 'On the Relationship of Political opportunities to the Form of Collective Action: The Case of the European Union', in D della Porta, H Kriesi, d Rucht, (eds.) *Social Movements in a Globalising World* (London, Palgrave Macmillan, 1999): 97-111
- 27 David Paternotte *ibid* (2016): 390
- 28 David Paternotte *ibid* (2016): 392
- 29 David Paternotte *ibid* (2016): 396
- 30 Gary Marks and Doug McAdam *ibid* (1996): 258
- 31 James Heartfield, *The European Union & The End of Politics*, (Winchester: Zero Books, 2012):126
- 32 Acquis = collection of common rights and obligations that constitute EU rule of law
- 33 Koen Sloopmaeckers & Heleen Touquet (2016) 'The Co-evolution of EU's Eastern Enlargement and LGBT Politics: An Even Gayer Union?' in Koen Sloopmaeckers, Heleen Touquet, Peter Vermeersch (eds.), *The EU Enlargement and Gay Politics: The Impact of Eastern Enlargement on Rights, Activism and Prejudice*, (London: Palgrave Macmillan, 2016): 19-44; Dimitry

Endnotes

- Kochenov, (2007). Gay rights in the EU: A long way forward for the Union of 27. *Croatian Yearbook of European Law & Policy*, Volume 3, no. 3, (2007): 469–49
- 34 ILGA-Europe *ibid* (2001): 8
- 35 Koen Slootmaeckers & H Touquet *ibid* (2016): 22; see also Kees Waaldijk, 'Legislation in fifteen EU member states against sexual orientation discrimination in employment: The implementation of Directive 2000/78/EC', in A. Weyembergh & S. Carstocea (eds.), *The gays' and lesbians' rights in an enlarged European Union* (Brussels Institut d'Etudes Européennes, 2006): 17–47.
- 36 Koen Slootmaeckers, *ibid* (2019): 2
- 37 Perry Anderson, *The New World Order*, (London: Verso, 2009), cited by James Heartfield *ibid* (2012): 136
- 38 Katinka Barysch, 'EU Enlargement One Year on', (London: Economist intelligence, 2005), cited by James Heartfield *ibid* (2012): 13
- 39 John O'Brennan, 'Enlargement Fatigue and its Impact on the Enlargement Process in the Western Balkans', in Luc-André Brunet (ed) *The Crisis of EU Enlargement. Special Report SR018*, (London: LSE Ideas, November 2013): 36-44.
- 40 Bal (2019), Op. Cit.
- 41 Croatia joined the EU in 2013; Albania official accession status 2014, Bosnia official accession status 2022, Montenegro official accession status 2012; Macedonia official accession status in 2005; In 2012 Serbia became a candidate for accession status. Kosovo submitted application for EU membership in 2022 and currently a candidate for accession but not all EU states recognise Kosovo as an independent state.
- 42 European Commission, 'European Neighbourhood Policy and Enlargement Negotiations', https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en
- 43 Koen Slootmaeckers & Heleen Touquet *ibid* (2016)
- 44 Koen Slootmaeckers and Heleen Touquet *ibid* (2016): 25
- 45 Committee of Members (COM), 'Enlargement strategy and main challenges 2006–2007 including annexed special report on the EU's capacity to integrate new members', 649, final, (2006)
- 46 Committee of Members (COM) *ibid* (2006): 6 Cited Koen Slootmaeckers and Heleen Touquet, *ibid* (2016): 25.
- 47 Committee of Members (COM), 'Enlargement strategy and main challenges 2011–2012, 666, final', (2011)
- 48 Christophe Hillion, 'Enlarging the European Union and deepening its fundamental rights protection', *European Policy Analysis*, (Stockholm: Swedish Institute for European Policy Studies, June 2013), https://www.sieps.se/en/publications/2013/enlarging-the-european-union-and-deepening-its-fundamental-rights-protection-201311epa/Sieps_2013_11epa.pdf
- 49 Committee of Members (COM), 'Enlargement strategy and main challenges 2013–2014, 700, final', (2013): 11
- 50 Committee of Members (COM), *ibid* (2013): 1
- 51 Koen Slootmaeckers and Heleen Touquet *ibid* (2016): 26
- 52 Koen Slootmaeckers and Heleen Touquet *ibid* (2016): 23
- 53 General Secretariat, *Promoting the Enjoyment of all Human Rights by Lesbian, Gay, Bisexual and Transgender People*, (Luxembourg: European Union, 2010): 5 https://www.consilium.europa.eu/media/30731/en_lgbt.pdf
- 54 Council of the European Union, *Guidelines to promote and protect the enjoyment of all human rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons*. (Luxembourg: European Union, 2013)
- 55 Council of the European Union *Ibid* (2013): 2
- 56 General Secretariate, *ibid* (2010): 8
- 57 TGEU (No Date). <https://www.coe.int/t/commissioner/Source/LGBT/Launch/TGEU.pdf>
- 58 Council of Europe, *Comprehensive sexuality education protects children and helps build a safer, inclusive society* (2020) <https://www.coe.int/en/web/commissioner/-/comprehensive-sexuality-education-protects-children-and-helps-build-a-safer-inclusive-society#:~:text=It%20aims%20to%20equip%20children,and%20understand%20and%20ensure%20the>
- 59 Koen Slootmaeckers & Heleen Touquet *ibid* (2016)
- 60 Koen Slootmaeckers, *ibid* (2019): 12; European Parliament, 'Homophobia in Europe', (European Parliament, 2007), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0167+0+DOC+XML+V0//EN>
- 61 James Heartfield, *ibid* (2012)
- 62 David Patternote *ibid* (2016): 390
- 63 Richard C.M Mole, 'Nationalism and Homophobia in Central and Eastern Europe' in Koen Slootmaeckers, et al, *ibid* (2016): 99
- 64 Mole, *Ibid.*, 105
- 65 Uladsislau Belavusan & Dimitry Kochenov, 'Federalizing Legal Opportunities for LGBT Movements in the Growing EU' in Koen Slootmaeckers et al, *ibid*, (2016): 69
- 66 Uladsislau Belavusan & Dimitry Kochenov *ibid* (2016): 69
- 67 George Vasilev, 'LGBT recognition in EU accession states. How identification with Europe enhances the transformative power of discourse', *Review of International Studies*, Vol 24, no. 4, (October 2016): 749 <https://www.cambridge.org/core/journals/review-of-international-studies/article/abs/lgbt-recognition-in-eu-accession-states-how-identification-with-europe-enhances-the-transformative-power-of-discourse/23CB9BBE3462C963ABCF34BAD3A2A928>
- 68 Koen Slootmaekers et al *ibid* (2016):6. See also Robert Kulpa, 'Western leveraged pedagogy of Central and Eastern Europe: discourses of homophobia, tolerance, and nationhood', *Gender, Place Culture: A Journal of Feminist Geography*, Volume

Endnotes

- 21, no. 4, (2014): 431–448; and Robert Kulpa and Joanna Mizielska, 'Contemporary Peripheries: Queer Studies, Circulation of Knowledge, and the East/West Divide', in Robert Kulpa, and Joanna Mizielska (eds.) *De-Centring Western Sexualities: Central and Eastern European Perspectives*, (Farnham: Ashgate, 2011): 11–26.
- 69 Katja Kahlina, 'Local histories, European LGBT designs: Sexual citizenship, nationalism, and "Europeanisation" in post-Yugoslav Croatia and Serbia', *Women's Studies International Forum*, Volume 49, (2015): 74
- 70 Council of Europe, Committee of Ministers, CM(2010)4-add3final, part 1. Cited Johnson (2022):14
- 71 Scottish Government Supporting transgender young people in schools: guidance for Scottish schools (August 2021) <https://www.gov.scot/publications/supporting-transgender-young-people-schools-guidance-scottish-schools/>, see Jenny Cunningham, *Transgender ideology in Scottish schools: What's wrong with government guidance* (*Scottish Union for Education, 2023*).
- 72 ILGA-Europe ibid (24 March 2023)
- 73 ILGA-Europe ibid (24 March 2023)
- 74 Equality & Human Rights Commission, 'Article 10: Freedom of Expression', <https://www.equalityhumanrights.com/en/human-rights-act/article-10-freedom-expression>
- 75 Luke Gittos, *Human Rights - Illusory Freedom: Why we should repeal the Human Rights Act*, Winchester: Zero Books (2019): 96-97
- 76 Chris Bickerton ibid (2016)
- 77 Sinem Bal, ibid (2019); Ian Manners, ibid (2002)
- 78 See for example Mattias Kristofferson, Bjorn van Roozendaal and Lilit Poghosyan, 'European Integration and LGBTI Activism: Partners in Realising Change', in Heleen Touquet, Peter Vermeersch (eds.), ibid (2016): 45- 68
- 79 Koen Sloopmaeckers and Heleen Touquet ibid (2016)
- 80 Koen Sloopmaeckers and Heleen Touquet, ibid (2016): 27
- 81 Koen Sloopmaeckers, Heleen Touquet, Peter Vermeersch (eds.) ibid (2016):5
- 82 Koen Sloopmaekers, idid (2019): 11
- 83 ILGYO, *Only Adults? Good Practices in Legal Gender Recognition for Youth: A report on the current state of laws and NGO advocacy in eight countries, with a focus on the rights of young people*, Thompson Reuters Foundation (November 2019)
- 84 IGLYO, ibid (November 2019): 20
- 85 IGLYO, ibid (November 2019):20
- 86 IGLYO, ibid (November 2016): 20
- 87 George Vasilev, ibid (October 2016): 763
- 88 George Vasilev, ibid (October 2016)
- 89 Sinem Bal, ibid (2019)
- 90 Sinem Bal, ibid (2019)
- 91 Sinem Bal, ibid (2019): 127
- 92 Sinem Bal, ibid (2019): 131
- 93 cited from LLA website, https://labrisz.hu/getting_to_know_lgbt_people
- 94 ILGA-Europe, ibid (2001): 32
- 95 cited from programme website <https://melegsegesmegismeres.hu/english/>
- 96 ILGA-Europe, ibid (2001): 50
- 97 ILGA-Europe, ibid (2001): 34
- 98 Open For Business, *The Economic Case for LGBT+ Inclusion in Central & Eastern Europe (CEE): Hungary, Poland, Romania & Ukraine*, (Open For Business: 2019)
- 99 Thomas Fazi, "Is this the end of the Soros empire? The retreat from Europe is long-overdue, UnHerd, (11th September 2023) <https://unherd.com/2023/09/is-this-the-end-of-the-soros-empire/>; European Union, Eastern Partnership Civil Society Forum *Structured consultation on the Eastern Partnership beyond 2020. Civil Society Perspective. Country Report: Ukraine* (European Union: March 2020)
- 100 David Patternotte, ibid (2016)